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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA JR., CALEPA BUILDING
1001 I STREET, 2ND FLOOR
CENTRAL VALLEY AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 20, 2001

9:30 A.M.

JAMES F. PETERS, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Paparian

David A. Roberti

STAFF

Karin Fish, Chief Deputy Director

Terry Jordan, Deputy Director

Michael Miiller, Assistant Director

Kathryn Tobias, Chief Counsel

Julie Nauman, Deputy Director

Rubia Packard, Assistant Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Susanne Blihovde

Kathy Marsh

John Nuffer

Tabetha Willman

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APPEARANCES CONTINUED

ALSO PRESENT

Mark Aprea, Republic Services

Denise Delmatier, NorCal Waste Systems

Sean Edgar

Chuck Helget, Allied Waste

Romel Pascual, CalEPA

Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: I'll welcome you
3 all back to our June meeting. Yesterday, we completed 1
4 through 27 and we're going to be starting with Item 28
5 this morning and completing the meeting today.

6 If you wish to speak, there are speaker slips in
7 the back and please give them to Ms. Villa. And I ask
8 that you please turn off cell phones and pagers. And with
9 that, I'll go to ex partes.

10 Mr. Eaton.

11 BOARD MEMBER EATON: I'm up to date, thank you,
12 Madam Chair.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Mr. Jones.

15 BOARD MEMBER JONES: Other than an Email from
16 Mike MaHajer, that I think all of the members got this
17 morning, I'm up to date.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.

19 BOARD MEMBER JONES: Oh and Gary Liss, I'm sorry.

20 CHAIRPERSON MOULTON-PATTERSON: I'll just go
21 ahead and take my turn now, because for all the Board
22 Members Gary Liss wrote a letter on zero waste, Item 30,
23 to all the board members. Then Mike MaHajer, as Mr. Jones
24 indicated, wrote he had to leave, and he wanted to -- he
25 wrote regarding Item 28, the fee increase.

1 Item 30, mission statement, and recommended that
2 the statement be expanded to address the issue of cost
3 effectiveness, and then also had a comment on item 16.

4 And the next one, this is for all the Board
5 members and I'm going to spell both names because I cannot
6 pronounce them. I think the first name would be
7 pronounced Saraswati. And then the last name is
8 C-h-a-n-d-r-a-m-o-u-l-i, well anyway, from Global
9 Recycling Council in support of the staff's recommendation
10 regarding the draft Strategic Plan, Item 30.

11 So those are for all the Board members.

12 Mr. Medina, ex partes.

13 BOARD MEMBER MEDINA: Only the correspondence
14 from Mike MaHajer and Gary Liss.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Yeah. Thank you. The
17 same correspondence as well as a general conversation with
18 John Kupps and said hello to Gary Liss.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.
20 I'm laughing because I forgot to have the roll call.

21 Would you call the roll, please.

22 SECRETARY VILLA: Eaton?

23 BOARD MEMBER EATON: Here.

24 SECRETARY VILLA: Jones?

25 BOARD MEMBER JONES: Here.

1 SECRETARY VILLA: Medina?

2 BOARD MEMBER MEDINA: Here.

3 SECRETARY VILLA: Paparian?

4 BOARD MEMBER PAPARIAN: Here.

5 SECRETARY VILLA: Roberti?

6 Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Here. Sorry
8 about that.

9 Okay.

10 BOARD MEMBER EATON: Madam Chair, could I move
11 that all the previous ex partes be included in as a result
12 of after the roll call.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.
14 Definitely.

15 Okay, so we're on Item 28 and who is presenting
16 that?

17 DEPUTY DIRECTOR JORDAN: I am, Madam Chair.
18 Terry Jordan with the Administration and Finance Division.

19 CHAIRPERSON MOULTON-PATTERSON: Go ahead.

20 DEPUTY DIRECTOR JORDAN: Good morning, Madam
21 Chair and board members. Item 28 is Consideration Of
22 Approval To Increase The Integrated Waste Management Fee.

23 At this time, I would like to bring to your
24 attention this item has some minor errors that I would
25 like to bring to you verbally, so you can note them for

1 your agenda item and that would be before we move into the
2 presentation, so I'd like to start with that first.

3 On page one, under Roman Numeral I, Summary, the
4 very first line should read, "At the April board
5 meeting..." not March. Under Roman Numeral III, Options
6 for the Board, we'd like to suggest a fourth option to
7 pursue legislation to raise the fee above the statutory
8 limits. On page two, Roman numeral V, Analysis, under key
9 issues, which is towards the bottom of the page. The
10 title, and this is very minor, "...suggest the IWFB..."
11 It would be the "IWMB".

12 And on page four continuing with Roman Numeral V
13 under waste exports, in the bottom of the first paragraph,
14 we recently received clarification from Allied VFI that
15 Napa's waste is going to Keller Canyon not Portrero
16 Landfill. That concludes the changes.

17 To introduce this item, I would like to review
18 with the Board that the focus should be on the Aye. Need,
19 but to give attention to the longer term impact for future
20 years when considering the outcome of this item. Keep in
21 mind, too, that the budget is fluid based on a point in
22 time of information and estimates. There will be some
23 adjustments after this fiscal year closes, and when we
24 begin developing the fiscal year 02/03 budget.

25 We need to consider that the maximum statutory

1 limit of \$1.40 will only increase the IWMA by
2 approximately \$2.3 million. And this does not fund the
3 Board's ability to do certain current activities such as
4 sustain the RMDZ loan program at more than \$3 million
5 through the sunset date. It does not adequately address
6 the Board's priorities and then direction as we move
7 forward with the new strategic plan and still maintain a
8 prudent reserve.

9 And I'm also concerned that with our limited
10 funds, we may not be able to continue funding Project
11 Recycle staff after the sunset of the RMDZ loan program.
12 In its current State, RMDZ currently funds Project Recycle
13 and \$3 million in loans annually through the sunset 2006
14 at the current funding level.

15 With that said, at this time, I will turn the
16 presentation over to staff. Suzanne Blihovde of the
17 Economic Forecasting and Analysis unit with the
18 Administration Finance Division will present this item.

19 MS. BLIHOVDE: Good morning, Madam chair and
20 members the Board.

21 (Thereupon an overhead presentation was
22 presented as follows.)

23 MS. BLIHOVDE: In the April 20th, 21st 2001 board
24 meeting, the Board was presented with a discussion on
25 Integrated Waste Management Account fund status and

1 projected revenues. The discussion included a brief
2 history of the IWM fee, the impact of inflation on IWM
3 fee's purchasing power, a comparison between the IWM fee
4 and average tipping fees charged at California landfills,
5 and the IWMA revenue projections through fiscal year
6 2002/2003.

7 From this discussion, staff was directed to
8 return with a formal proposal to increase the IWM fee
9 while considering the impact of sale of Recycling Market
10 and Development Zone Loans and IWMA as well as the
11 sunsetting of the exemption of inerts from the IWM fee.

12 During the April discussion, the history of the
13 IWM fee was covered in detail. So this will be just very
14 brief. The IWM fee is the Board's principal source of
15 funding for its solid waste program. Per statutory
16 changes to the PRC Section 4800 in 1993, the IWM fee was
17 set at a \$1.34 per ton beginning on July 1st, 1994.

18 Beginning in fiscal year 1995/96, the Board was
19 granted authority to increase the fee to ensure -- to a
20 maximum of \$1.40 per ton so that revenues were generated
21 equivalent to the approved budget including the prudent
22 reserve.

23 Although the Board has not acted to increase the
24 IWM fee since July 1994, an achievement, progress and
25 promise a status report submitted to the Legislature in

1 March 2000, the Board recognized that it might not be able
2 to fund all of its initiatives without a fee increase.

3 --o0o--

4 MS. BLIHOVDE: During the April discussion, I
5 presented a chart similar to the one that's on the
6 overhead that shows the impact of inflation on the IWM fee
7 between fiscal year 1994 and 1995 and fiscal year
8 2000/2001. Inflation in California, as measured by the
9 Consumer Price Index for all urban consumers, was
10 increased 16.7 percent. Inflation is projected to be 21.2
11 percent in fiscal year 2001/2002 and 23.3 percent through
12 2002/2003.

13 These inflation rates are .5 percent, two percent
14 and one percent higher than the inflation rates reported
15 to the Board in April 2001.

16 These increases are primarily due to the
17 increased cost of energy and the increased cost of
18 housing. And you can tell -- well if you can't read the
19 chart please refer to the printed up charts from the
20 items.

21 In fiscal year 2000/2001 the fee would need to be
22 \$1.56 to keep up with inflation, \$1.62 in 2001/2002 and
23 \$1.65 in 2002/2003. At the same time, the purchasing
24 power in these same fiscal years has been reduced to \$1.15
25 \$1.11 and \$1.09.

1 This is a new chart for you. During the April
2 briefing -- the briefing for a April meeting, information
3 was requested concerning what the impact of inflation and
4 the loss of purchasing power totaled in dollars and how
5 would the fee need to be adjusted to recapture the lost
6 revenue. The purple line above the \$1.34 represents over
7 \$45 million lost due to inflationary costs and not keeping
8 up with inflation. The blue line below \$1.34 line
9 represents \$39.2 million lost in purchasing power.

10 So the total missed income from 1995/96 to fiscal
11 year 2002/2003 is \$84.8 million.

12 --o0o--

13 MS. BLIHOVDE: What would the fee need to be to
14 recoup the missed income over the seven years from the
15 94/95 to 2001/2002 and keep up with inflation in fiscal
16 year 2002/2003?

17 We start with the base fee of \$1.34. We would
18 need to add another .34 cents to keep up with inflation
19 through 2003/2004 for a subtotal of \$1.68.

20 In order to recover the purchasing power lost in
21 that seven-year period, we would need to add another .11
22 cents to recover the costs over an additional seven years.
23 To keep up with inflation, we would need another .12
24 cents.

25 So the total fee to recapture the \$84.8 million

1 dollars over a seven-year period would need to be \$1.91.

2 This assumes inflation and the disposal rate remain

3 constant at the 2003/2004 level.

4 --o0o--

5 MS. BLIHOVDE: The average California landfill

6 tipping fee. As this chart shows, the average landfill

7 tipping fee in California has kept pace with or exceeded

8 inflation rates as measured by increases in the California

9 CPI. The average landfill tipping fee in California is

10 \$35.14 according to the latest CIWMB phone survey. After

11 the April presentation, I was asked if this chart included

12 transfer stations. It does not.

13 --o0o--

14 MS. BLIHOVDE: The red line on this chart

15 indicates what the average fee is with all disposal

16 facilities included. It only begins in 1996 because

17 that's when the CIWMB phone survey began including all

18 disposal facilities including transfer stations.

19 --o0o--

20 MS. BLIHOVDE: California's economic growth has

21 slowed considerably during the first quarter of 2001. The

22 May revision forecast that the economic slowdown will

23 continue for the next 12 months with growth to increase in

24 2002. The March 2001 UCLA Anderson forecast is projecting

25 a recession in the Bay Area with continuing slower growth

1 in southern California.

The UCLA Anderson forecast is projecting a short and shallow recession for the nation as a whole, with recovery to be under way in 2002. As a result of the economic slowdown, staff have made conservative projections for available IWMA funds.

7 This attachment and this chart shows projected
8 revenues and expenditures through fiscal care year
9 2002/2003. I would like you to note that the revenue
10 projections for fiscal year 2001/2002 do not match what is
11 currently in the Governor's budget. That was at a point
12 in time that was included in the Governor's budget last
13 fiscal year before the economic slowdown really hit
14 California.

15 The projections are approximately \$1 million
16 less. Staff considers it a prudent and conservative
17 estimate to project that the revenues will be the same
18 next fiscal year as they are for this fiscal year.

19 --o0o--

20 MS. BLIHOVDE: Moving on to inerts and the impact
21 on the fees. The sunset of the inert exemption from the
22 IWM fee is January 2002. Consequently, there is a
23 potential increase in IWM fee revenue of \$976,000 in
24 fiscal year 2001/2002, and another almost \$1.7 million in
25 fiscal year 2002/2003. This chart shows that impact of

1 revenue -- Attachment 4 shows the impact of revenue from
2 inerts on the IWMA reserve and funds available to transfer
3 to the RMDZ.

4 As this chart indicates, revenues from the inerts
5 would allow the Board to make a small transfer of funds to
6 the RMDZ program. However, there is pending legislation
7 that would extend the sunset of fee exemption until
8 January 2005 to allow the Board to develop tiered
9 regulations from nine reclamation sites.

10 The regulatory process is at a minimum a two-year
11 process and the proposed extension of the sunset appears
12 to provide sufficient time with which to complete the
13 regulations.

14 --o0o--

MS. BLIHOFDE: Moving on to the RMDZ program. During the April 2001 discussion item on the IWM fee, staff noted the potential need to transfer IWMA funds to the RMDZ program to continue funding the Project Recycle activities. However, a more recent review of RMDA available funds, incoming interest revenue and expenditures indicate that the transfer of funds will not be necessary.

23 Next fiscal year the loan program will have \$10
24 million available for loans. However, after that
25 availability decreases dramatically approximately \$3

1 million each year. The Board would need to transfer funds
2 from the IWMA or successfully implement a leveraging
3 option if the Board wants to have funds available to meet
4 the estimated loan of \$10 million annually.

5 Waste Exports. The export of waste out of the
6 State does impact IWM fee revenues. Between 95/96 and
7 99/2000, waste exports grew from 567,000 tons to 995,000
8 tons. On a calendar year basis, however, there has been a
9 recent decline in waste exports. In calendar year 1999
10 waste exported totaled over one million tons. However, in
11 2000, waste exports dropped to 747,000 tons.

12 This drop was primarily due to Napa no longer
13 shipping its waste out of state, and as noted earlier the
14 waste now goes to Keller Canyon Landfill in Solano County.

15 Waste export and its associated fee equity
16 concerns are complex policy issues that have been heard by
17 the Board in the past. There are too many factors to
18 consider in addressing the fee equity issue to provide an
19 analysis on potential fee revenues from exported waste.
20 Should the Board wish to pursue this as an option, staff
21 is ready to take the Board's direction and return with a
22 future Board item.

23 Expenditures, going back to attachment 3.

24 --o0o--

25 MS. BLIHVDE: Shows actually expenditures and

1 revenues through fiscal year 1999/2000 and projected
2 revenues AND expenditures through 2002/2003. As noted in
3 the April item, the Board has maximized available funding
4 with the programmatic progress and success over years
5 including the facility compliance loan program, increased
6 RMDZ participation, contracts and grants related to
7 markets and sustainability, the waste characterization
8 study, and the household hazardous waste local government
9 infrastructure for collection and recycling.

10 Within the expenditure shown, there is over \$2
11 million in cost of living adjustments for IWMA staff since
12 fiscal year 1998/99. The Board has had to absorb those
13 costs within the IWMA, unlike other agencies who receive
14 funding for COLAs from the General Fund.

15 Other administrative costs, such as position
16 upgrades, higher travel costs, increased facility costs
17 and other increases in operating expenses have also been
18 absorbed within the IWMA.

19 The expenditures include several programs
20 established under the direction of the Board that operate
21 with no baseline operating budget. These programs receive
22 redirected dollars to Implement and include CalMAX, WRAP,
23 Recycled Contents Product Trade Show.

24 The Department of Finance calculated the prudent
25 reserve at ten percent of expenditures in fiscal year

1 2000/2001. The Board is projected to have a 7.9 percent
2 reserve. In 2001/2002 this reserve drops to 3.3 percent.
3 And the reserve increases slightly to 4.4 percent in
4 2002/2003.

5 --o0o--

6 MS. BLIHOVDE: Attachment five displays the
7 impact to revenues and the reserve should the Board choose
8 to increase the fee to \$1.40 per ton effective in the
9 fiscal year 2002/2003. The Board would have a projected
10 reserve of \$4.3 million or 9.3 percent of expenditures.

11 A budget change proposal would be necessary for
12 the fee increase if the Board decided to use the revenue
13 for purposes other than reserve or transfer to the RMDZ
14 program.

15 To conclude, in the past, the Board has been able
16 to maximize its programmatic successes without an increase
17 to the IWM fee. The ability to sustain this level of
18 performance is being eroded by the continuing loss of
19 purchasing power of the IWM fee and the slowing of the
20 economy.

21 Without an increase to the fee, the Board may be
22 faced with some difficult choices on the best way to meet
23 its statutory mandates within the available funding.

24 The options for the Board to pursue. The Board
25 may decide to increase the IWM fee to a statutory limit of

1 \$1.40 per ton for Public Resources Code Section 4800(b)
2 effective July 1st, 2002; increase the IWM fee up to the
3 statutory limit of a \$1.40 per ton per PRC Section 4800;
4 keep the fee at its currently authorized level of \$1.34
5 per ton; or the fourth option, which was just added,
6 pursue legislation to increase the fee above the statutory
7 limit.

8 Staff are recommending option one, increase the
9 IWM fee to the statutory limit of \$1.40 per ton and
10 request the Board to approve Resolution Number 2001-216.

11 This concludes my presentation. I'm available to
12 answer any questions.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you very
14 much.

15 Questions?

16 Mr. Eaton.

17 BOARD MEMBER EATON: I just have a couple general
18 questions. I want to reserve some specific questions.

19 Does recommendation on Item 1 involve a budget
20 change proposal request as well or is that separate and
21 apart?

22 MS. BLIHOVDE: If the Board approves the
23 recommendation --

24 BOARD MEMBER EATON: I understand the mechanism,
25 but I want to find out what staff is recommending. I know

1 you're recommending that we increase X.

2 DEPUTY DIRECTOR JORDAN: I'd like to speak to
3 that. Terry Jordan.

4 We have not proposed a BCP. We are in the
5 current process of BCP concepts. It would be our intent
6 that depending on what the Board does with this item, we
7 would have to look at putting together a BCP. And
8 certainly, if the Board were to delay a vote today on
9 this, that would give us more time to put together a BCP,
10 because there's also the issue of how would the monies be
11 spent, how does the Board see the monies being spent.

12 BOARD MEMBER EATON: Right, I understand, but I'm
13 just -- I can't ask to approve the resolution without the
14 two components that you talked about, which was basically
15 if you're going to use this for other than RMDZ and/or
16 reserves, then you need a BCP. That was my understanding
17 from what you presented.

18 MS. BLIHOVDE: That's correct.

19 BOARD MEMBER EATON: So is that part of the
20 resolution? I just want to be clear. We're going to get
21 to that discussion. But I just want to make sure what's
22 in the resolution. Is that part of the resolution?

23 MS. BLIHOVDE: No.

24 BOARD MEMBER EATON: So the resolution does not
25 include a BCP?

1 DEPUTY DIRECTOR JORDAN: It does not.

2 BOARD MEMBER EATON: But the staff recommendation
3 says spend it on something other than RMDZ and reserves in
4 the resolution.

5 MS. BLIHOVDE: The resolution is silent to that.

6 BOARD MEMBER EATON: Well, by operation then.

7 MS. BLIHOVDE: Then it is silent then.

8 BOARD MEMBER EATON: The other question I have is
9 where in your projections on our RMDZ a selling of the
10 loans that the Board took up a couple of months ago, and
11 is that projection included in there, because my
12 understanding was we had a discussion on RMDZ that
13 involved the selling of some loans. And I think it was
14 back in -- it says continued from January, but we did it
15 some time --

16 BOARD MEMBER JONES: I think it was February.

17 BOARD MEMBER EATON: February. So was that not
18 at least an option for us to look at as we're trying to
19 get the full picture of what our financial is? That would
20 be an option that would sway me one way or the other with
21 regard to some of the other matters.

22 I can't look at it in just separate components.
23 I can, but you don't want me to look at it that way,
24 because I'll just kill you with questions. What is that
25 component of this projection?

1 MS. BLIHOVDE: The loan sales were not factored
2 in because the RMDZ program can keep operating with the
3 sale or without the sale through its sunset. So the need
4 to transfer funds from the IWMA is based on what level of
5 loans the Board wants the RMDZ program to initiate.

6 BOARD MEMBER EATON: But that would definitely
7 take pressure off the Board, if we approve the selling of
8 the loans, which would free up any, if we were to go for
9 an increase for other programs.

10 DEPUTY DIRECTOR JORDAN: That's correct.

11 BOARD MEMBER EATON: Right, so I think that I
12 would need in least -- while we're talking maybe someone,
13 Mr. Jordan, can run and get what the actual figures were,
14 the projections for that.

15 DEPUTY DIRECTOR JORDAN: I can give them to you
16 right now.

17 BOARD MEMBER EATON: The other thing of the 22
18 percent inflation, do we have any chart that shows how
19 cyclical the economy has been since the '93 -- we had a
20 dip in 95 or 96 which would be helpful. The other thing
21 that's sort of surprising to me, and I think we have to
22 factor in here, is everyone is talking about the economy
23 and the inflation and what have you. And I'm a little
24 saddened, if you want to know the truth.

25 I'm saddened because no one has mentioned that

1 maybe we're doing our job is the reason why the revenues
2 aren't up. I mean we sat for the last year and a half or
3 two years and approved all of these wonderful
4 jurisdictions that supposedly have increased their
5 diversion above 50 percent.

6 Isn't that really -- I mean, that to me would
7 seem to be that we're doing our job, and therefore, we're
8 not getting the money because we're doing our job. But if
9 we're only basing it on the economy, then we must not be
10 doing our job, because there's the impact on the revenues
11 really, isn't there, as a result of diversion.

12 And I need to see what that impact is as well.

13 MS. BLIHOVDE: I don't have the chart with me
14 that I provided in the April discussion, but it showed how
15 in about 95/96 we hit our low mark for disposal. And then
16 since then, it's been going up, increasing. And it
17 coincides with the economic upturn from the slowdown at
18 that same time period.

19 BOARD MEMBER EATON: I just wanted to get some
20 fundamentals first.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Any other questions?

23 Before I move to you, Mr. Jones, I'll give you a
24 chance to catch your breath, Senator Roberti, welcome.
25 But if you want me to come back to you on ex partes?

1 BOARD MEMBER ROBERTI: I'm up to date.

2 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.
3 Mr. Jones.

4 BOARD MEMBER JONES: Thank you, Madam Chair.
5 Just a couple of issues. First, I want to thank you for
6 providing that information on the Delta between what our
7 actual dollars have as value and what they would be
8 through the CPI. I don't propose to ever offer a rate
9 increase of 50 some cents on the fee, but I think it's
10 important to illustrate just how those dollars -- with the
11 impact of those dollars that all things being equal, and
12 the fact that rate increases at facilities go up by the
13 Cost Of Living Annually, would be -- our fee would be at
14 \$1.91 to be the status quo with what the disposal fees
15 would be.

16 That gives us a basis to look at just -- I think
17 it helps provide another tool as to the importance of some
18 of the issues we need to deal with.

19 And one of them I noticed on your inert
20 discussion we looked in potential revenue of \$976,000.
21 Just judging by the 475,000 tons of quote unquote ADC,
22 which I'm having discussions with the folks and there's
23 evidently been a mistake, but just those dollars would be
24 \$632,000 for that quarter.

25 And I think that it is important to understand

1 that we need to look at what that impact is on our fee.
2 And I also think it's important to look at the point of
3 collection. Right now statutorily the \$1.34 is collected
4 at a landfill. AB 688 had verbiage in it that would have
5 changed the point of collection, but the Waste Board, at
6 that time, back, I think, in '94 or 5 or maybe 6, did not
7 talk about how those dollars should be collected.

8 One of the discussions I want to have with the
9 Board members today is, after everybody's commented and we
10 see how they feel about it, is I think it's critically
11 important and fair to look at tagging onto another bill.
12 Mr. Miiller, if there's some -- you know, a bill that we
13 can be able to provide proper legislation to change the
14 point of collection, that if there's not a landfill that
15 this material is going to, then the point of collection be
16 the transfer station less that portion of the fee that
17 goes to actual landfill inspections.

18 At the time that this went through, and this has
19 been an issue that came to previous boards and committees
20 almost every quarter or maybe twice a year, I think it was
21 nine percent of the fee or nine cents of the fee shouldn't
22 be charged. It shouldn't be \$1.34. If we change the
23 point of collection from those that aren't going to
24 landfills to transfer stations, it should be \$1.26 or
25 \$1.27, I forget the number, but our staff would have that,

1 because that represents fairly that we're not providing
2 that landfill oversight in those communities, so they
3 shouldn't, you know -- they felt they shouldn't pay for
4 it.

5 But all of those communities are coming forward
6 to this Board They're coming forward to this Board to help
7 them with AB 939 compliance with our different divisions
8 in assistance. But yet the burden of paying for all that
9 is placed on the California facilities. So the waste that
10 goes outside of the State, those jurisdictions actually
11 have the benefit of not having to pay the \$1.34 and they
12 have the benefit of having equal footing in getting the
13 grants.

14 And at some point it's not fair to those folks,
15 those citizens that are paying the \$1.34 in the rate. I
16 would prefer, especially considering that with all the
17 slashing that's going on within both houses of the
18 Legislature and the Governor's office, this six cents is
19 going to -- you know, Finance looks at the fact that we've
20 got a million and a half in our reserves, and they want us
21 to have four million, I don't think they're going to be
22 that quick to give us that expenditure authority.

23 And I know one of the arguments that our
24 executive team has always used with Finance is that this
25 Board already had the ability to enact that six cents in

1 case of an emergency, that it didn't enact it just to go
2 in the reserve, but if there really was an issue, we could
3 enact it statutorily right away, and we give up that
4 bargaining chip if we put it in now just to put six cents
5 more in the reserve, when the real issue should be point
6 of collection of the fee and treatment of the inert
7 material at permitted facilities.

8 Those two things alone would require a BCP at the
9 end of the day to figure out, because we would have an
10 awful lot more money than what that six cents would be and
11 probably would be pretty easily supported, especially -- I
12 know that we had a point of collection workshop. Madam
13 Chair, I don't remember if it was -- Rubia, do you
14 remember how long ago it was.

15 ASSISTANT DIRECTOR PACKARD: Yes, I do. I have
16 some notes here for you on it in case you asked. The
17 workshops were in March of '98. There was one workshop
18 here in Sacramento and one in southern California. And
19 there were a variety of questions that were focused on the
20 equity of paying the fee versus the nonpayment for waste
21 export. And there was some recommendations that came out
22 of that that were presented to the Board later that year
23 in August.

24 BOARD MEMBER JONES: And I don't want to -- it
25 seemed to me that we were getting testimony that was -- I

1 don't remember people being opposed. I don't remember a
2 lot of opposition. It seemed to me it was pretty much
3 across the Board, that people felt it was an equity issue.

4 ASSISTANT DIRECTOR PACKARD: Yes, that's correct.

5 BOARD MEMBER JONES: I don't want to misrepresent
6 any stakeholders in this thing, but I do remember that the
7 industry, and I think it was the League of Cities and
8 others that did not -- you know, felt it was a fairness
9 issue. And that really was going to be, I think,
10 something that we were going to use to go on to the next
11 step, and it never happened.

12 ASSISTANT DIRECTOR PACKARD: Well, if I could.

13 BOARD MEMBER JONES: It's probably our fault. I
14 mean it was our fault.

15 ASSISTANT DIRECTOR PACKARD: No. What happened
16 was there was a concept, a legislative concept, that was
17 drafted and put forward and that was at a time when the
18 Administration was not interested in doing anything that
19 remotely looked like raising the fee. And so the time
20 wasn't right, at that time and it wasn't put forward to
21 either APC or the Governor's office as a proposal.

22 BOARD MEMBER JONES: Thank you.

23 ASSISTANT DIRECTOR PACKARD: So it kind of died
24 in-house because of that.

25 CHAIRPERSON MOULTON-PATTERSON: If I could just

1 interrupt for one moment. You know it would really be
2 helpful if the four of us could see any, you know, notes
3 from that since we weren't here.

4 ASSISTANT DIRECTOR PACKARD: Okay, we did provide
5 you with -- I don't know -- you probably don't have it
6 with you, but we did give you a notebook. All of the
7 information that we're talking about is in there, the
8 summary of the questions, the summary of the feedback, the
9 agenda items, all of that is in there, so you can have
10 that.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 BOARD MEMBER JONES: Thanks. And you're right, I
13 didn't even know it was in there. So I'm glad, because it
14 is important because this would not be raising a fee. I
15 think that what this Board has to understand is if we look
16 at point of collection, it's not raising the fee, it's
17 taking the fee and changing where we collect the fee.

18 And I think that that's important in how we
19 present this to the public and to the Legislature and to
20 the Governor's office, but clearly the impact would be
21 substantial. And I'll end at that, but I do want to have
22 that discussion after everybody makes their comments.

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

24 BOARD MEMBER EATON: Mr. Jones, isn't that the
25 rhetoric that I think that --

1 BOARD MEMBER JONES: Close the loopholes, closing
2 the loopholes.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

4 BOARD MEMBER PAPARIAN: Thank you. As I see it,
5 there are sort of four issues before us here. The first
6 one is raising the fee to \$1.40. I mean looking at the
7 numbers, and I have looked at the numbers very closely, I
8 think the case is made very clearly that we ought to be
9 raising the fee to \$1.40.

10 I think we would have difficulty justifying any
11 legislative proposals unless we either exhausted our
12 existing authority to raise the fee.

13 The second issue is the question of where we're
14 at financially. I was not aware, at least it didn't
15 strike me until I saw this agenda item, how far off we
16 were from an expected reserve.

17 Somehow priorities obviously are being set for
18 how we spend our money or what we're not funding or what
19 we are funding in relationship to how much the reserve
20 should be. I think that that's a situation where there
21 should be a little more active Board involvement. You
22 know, obviously somewhere a decision has been made not to
23 fund a reserve at an expected level, and that may or may
24 not be the right decision.

25 We've been able by not funding at the expected

1 level to meet all of our, you know, priorities and
2 expenses and so forth. But I think that, again, those are
3 the sorts of things that the Board ought to be taking a
4 look at.

5 If we do reach the point where we have the
6 additional revenue and things work out with the reserve, I
7 think, again, the Board should be involved in some of the
8 determinations about what BCPs should be pursued or
9 whatever mechanisms are put in place for spending that
10 money.

11 Anyway, what I'd like to see, I think, is a
12 subcommittee of the Board to take a look at some of these
13 fiscal issues, see where we're at with the reserves, see
14 where we're at with spending, related issues, develop some
15 options for use of the funds if we increase the revenues
16 over time, through the mechanisms that have been talked
17 about today.

18 You know, so I'd like to see a subcommittee take
19 a look at some of these issues and maybe report back to
20 the full board in two or three months about where we're at
21 financially and what options there may be for the Board to
22 look at.

23 The third and fourth issues -- the third one is
24 whether we should seek legislation to raise the fee above
25 \$1.40. A fourth one are the issues that Mr. Jones talked

1 about, the point of collection for the fee and the inert
2 issues, both of which I think are indeed very important
3 issues.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you. And I
5 certainly would support you on the Board members being
6 more involved in setting the priorities. And truly when
7 we get to the strategic plan, if our strategic plan really
8 is what the Board members want, then that should drive the
9 budget. And I think a lot of work has been put into that.

10 But I want to give others a chance to -- did
11 you --

12 DEPUTY DIRECTOR JORDAN: Madam Chair, I just
13 wanted to clarify for Mr. Paparian and the rest of the
14 members that in speaking of the reserve and how we spend
15 our money, we do spend our money with regards to how we
16 meet AB 939. The way that the budget is developed is
17 based on program elements that we have within this Board
18 and the functions, programmatic functions.

19 And so there is a cap on the support, et cetera.
20 And we can reflect that better for you in our individual
21 budget briefings that we do for you after year-end
22 closing.

23 However, I also wanted to point out that even
24 though that Finance had an exportation of a ten percent
25 prudent reserve, if you look back over our history, you'll

1 see that it was ten plus percent. But I think, at that
2 time, they may have been a little bit more stringent with
3 us because we were a fairly young organization, and, you
4 know, the revenues had changed, and they were kind of
5 watching what we were doing.

6 And certainly we didn't have a whole lot of
7 experience early on. And I think what has really happened
8 is we've been able to manage our resources and put in
9 place excellent programs, and so that they have been more
10 willing, where now they're saying the prudent average is
11 around five percent reserve.

12 The Administration and Finance division,
13 previously for this fiscal year, had negotiated with them
14 to bring down the reserve to three percent. So, you know,
15 we have some history now with Finance with regards to the
16 managing of our resources and the ability to maybe have a
17 little bit lower, even than the five percent that's the
18 average, and they've backed away from the ten.

19 So I think that, you know, looking at that, we've
20 reflected ten percent because that is the maximum. Where
21 we've been staying for this year and proposed for next
22 fiscal year and the following year is around three
23 percent.

24 BOARD MEMBER PAPARIAN: So I'm confused now.
25 Finance is accepting three percent so the chart is not

1 quite accurate then.

2 DEPUTY DIRECTOR JORDAN: They did accept the
3 negotiation.

4 BOARD MEMBER PAPARIAN: Okay, so the chart --

5 DEPUTY DIRECTOR JORDAN: That's what's currently
6 reflected on the chart as the balance available, and then
7 you'll see a target of a ten percent.

8 BOARD MEMBER PAPARIAN: So the target now is
9 just --

10 DEPUTY DIRECTOR JORDAN: That's what they had
11 originally said was a prudent reserve.

12 BOARD MEMBER PAPARIAN: So the target is the
13 target of Finance of several years ago. The current
14 target is something in the order of three percent?

15 DEPUTY DIRECTOR JORDAN: Their average is five.
16 We tried to get them down to three and obviously were
17 successful for this fiscal year. And it appears that
18 we'll be about there or four percent for next fiscal year.

19 BOARD MEMBER PAPARIAN: Okay. So we're matching
20 our target to our actual reserve. We're matching their
21 target to our actual reserve then?

22 DEPUTY DIRECTOR JORDAN: When we look at the
23 reserve, we have to take a look at the percentage that
24 they're expecting against our expenditures. And so when
25 staff have portrayed here the target of the ten percent,

1 that's what has been the history. And we have not kept up
2 with that in this fiscal year and for next fiscal year,
3 because there was successful negotiations.

4 And so where you see the balance available is
5 what we are currently running as a reserve.

6 BOARD MEMBER PAPARIAN: Is it your desire to get
7 up to that ten percent or is that --

8 DEPUTY DIRECTOR JORDAN: No, We'd like to still
9 argue with them that, you know, we're managing our current
10 resources successfully, and that our programs have proven
11 themselves, and so that we can continue anywhere between
12 the three and their expected average of five now.

13 BOARD MEMBER PAPARIAN: Okay. So if we were to
14 raise the fee in 2001/2002, our balance available is, in
15 fact, meeting the reserve expected from the Department of
16 Finance. Therefore, the increase, the six cent increase,
17 could, in fact, go to either RMDZ or something else if
18 there was an approved BCP.

19 DEPUTY DIRECTOR JORDAN: That's correct,
20 operational issues that we already have expenditure
21 authority for, and that was either the RMDZ or the
22 reserve. We could do a BCP to try to improve something
23 else.

24 BOARD MEMBER PAPARIAN: Yeah. So based on this
25 discussion, I think, the case is even more made that we

1 ought to have a little more Board knowledge and
2 involvement.

3 CHAIRPERSON MOULTON-PATTERSON: I really
4 appreciate you clarifying that Ms. Jordan, because I
5 thought, at the briefing that you said that all State
6 boards and all were required to have a ten percent. And
7 then I read in the LA Times that the Governor had asked
8 that he was doubling it, that all of them have now six
9 percent, so I was really confused.

10 So you're saying that the past Administration, or
11 the early days, they needed ten percent, but now it's more
12 lenient; is that correct?

13 DEPUTY DIRECTOR JORDAN: Right. Now their
14 average is five.

15 CHAIRPERSON MOULTON-PATTERSON: Okay.

16 DEPUTY DIRECTOR JORDAN: And obviously through
17 negotiations sometimes you can get them down a little
18 further.

19 CHAIRPERSON MOULTON-PATTERSON: Okay.

20 Thank you for clearing that up. And I do want to
21 give the other Board members a chance to speak and we have
22 speakers. Mr. Medina, Senator Roberti, did you wish to
23 speak now or would you like to hear the speakers.

24 BOARD MEMBER ROBERTI: I'll make a comment that
25 obviously I support the increase to \$1.40, since the

1 Legislature has been periodically raiding our funds one
2 way or another to take care of other very, very necessary
3 items, such as the cleanup of the Los Angeles River. And
4 we're trying to squeeze money to do all the things that
5 have to be done with limited dollars at 1.34.

6 My concern is that \$1.40 doesn't even remotely
7 deal with the problem. It doesn't bring us back to 1993
8 standards. So we're just going to constantly be falling
9 back. And if there's anyway where cost of living is felt,
10 it's in construction projects and engineering projects.
11 There's no way to skim the dollars to feel that really we
12 aren't going to have to pay the enormous costs. Those
13 costs are real. They hit us and we can only do fewer and
14 fewer things, such as the things we need to do, like
15 market development and energy development and closing
16 landfills, and assisting small counties, education
17 programs, sustainability questions, and, of course, in my
18 own backyard, because this was the area of conflict,
19 cleaning up the Los Angeles River.

20 So we have to do all those things and we're
21 trying to do it now on \$1.34. We're going to try to do it
22 on \$1.40. That's fine, but it's just minute, so I hope
23 staff can come back, and I'm requesting through the Chair
24 here, that staff come back with a recommendation that we
25 ask the Legislature to increase the fee from a \$1.40 to

1 \$2, and that we discuss that kind of a legislative
2 recommendation, so that we can get this kind of
3 legislation moving.

4 And it's the kind of thing where, you know, win
5 or lose we have to do our job and let the world know that
6 we can't do all these things on the limited dollars we
7 have.

8 If the Legislature chooses not to pass it, that
9 would be sad, but so be it, but we have to make the
10 attempt.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you,
12 Senator Roberti.

13 Mr. Medina.

14 BOARD MEMBER MEDINA: Yes. Madam Chair, I also
15 see the need and support a fee increase up to the current
16 one that's being proposed now, and later through the
17 Legislature a higher one as needed. And I think that the
18 prudent reserve at three to five is the one that's
19 adequate, and ten percent is really too high. And there
20 really should be a closer working relationship between
21 these strategic plans and the budget and that we go
22 through both of those.

23 The Board members really, since we are involved
24 in this strategic plan, a great effort has been made to
25 putting together the strategic plan, so should a similar

1 effort be made in terms of the participation of the Board
2 members in studying the budget.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Medina.

5 Certainly we'll get to the speakers. Just my
6 comment is, you know, I'd like to see us raise it to what
7 we're statutorily allowed, to \$1.40, to also seek
8 legislation to get what we really need to support our
9 programs, and I just really agree with Mr. Jones we must
10 look at this out-of-state exports and inert and then what
11 was your other point, point of collection, I need to know
12 more about that, so that we can, you know, support the
13 programs we all believe in.

14 And with that, I will go to our speakers. And
15 thank you for an excellent report, both of you. Mr. Mark
16 Aprea, Republic Services.

17 MR. APREA: Good Morning, Madam Chair and Members
18 of the Board. Mark Aprea representing Republic Services.
19 With all due respect to the Board members who are
20 supportive of an increase, Republic Services unequivocally
21 opposes any of the fee increases that are proposed before
22 you today.

23 That said, we're not opposed to any and all
24 changes in the fees or the fee structures. However, the
25 fee increase proposed today dooms this Board to repeat the

1 same mistake over and over again, because what you're
2 going to end up doing is finding yourself in the need to
3 increase fees down a road as inflation goes up and the
4 waste stream continues to decline.

5 All you're engaging in is some sort of a
6 stop-gap, which will not address the fundamental problem.
7 For the past ten years this Board and its predecessors
8 have known that the fee structure was doomed to find
9 yourself in the current situation. That is, we all knew
10 that inflation was going to occur at some rate. And if
11 you were successful and the local agencies were successful
12 and the solid waste haulers were successful in getting
13 anywhere near achieving the 50 percent diversion, there
14 was a predicted decline in revenue.

15 And therefore, you have before you a situation
16 that could have been seen day one and it was seen each and
17 every year. This is not the first time that a proposed
18 increase in fees has come before this Board. And yet in
19 that entire time there's never been an attempt made
20 successfully, implemented I should say, to address the
21 fundamental underlying problem. I would strongly urge
22 that you all look at doing that before you engage in
23 increasing the fees.

24 Furthermore, the timing of this fee increase
25 couldn't be worse. We have a softening economy. And for

1 those of us who run facilities that have high energy
2 usage, I suggest to you that we've already seen our fees
3 increased substantially. We are also looking at a
4 declining waste stream as the economy softens. And as
5 staff predicted, we can certainly anticipate that there
6 will be further decline in terms of the Ewaste disposed as
7 opposed to under a more robust economy.

8 We're not disputing any of the figures that have
9 been presented to the Board today. The figures, I'm sure,
10 are accurate. But the situation that you all have is to
11 fundamentally address the situation. And that is to
12 either continue along this same course and find yourself
13 having to increase fees periodically down the road, find a
14 way to make some budget cuts in terms of addressing a
15 declining revenue stream or, in fact, address the problem
16 head on and deal with it so that it has an opportunity to
17 adjust itself down the road, and that is to, as Mr. Jones
18 has suggested, that we address the more fundamental
19 question of we're going to raise revenue to cover your
20 costs.

21 So with that said, I would be happy and I know
22 that folks in my company with my client would be happy to
23 work with this Board, with staff and with other
24 stakeholders to address the underlying issues that Mr.
25 Jones and others have addressed, but we would ask that you

1 not increase the fees. Until you address the underlying
2 question, any fee increase should be rejected.

3 Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
5 PRÈS.

6 Denise Delmatier, NorCal Waste.

7 MS. DELMATIER: Madam Chair and members of the
8 Board, Denise Delmatier with NorCal Waste Systems. And on
9 behalf of NorCal, we too are opposed to any increase in
10 fee at this time.

11 We strongly urge the Board to address, Mr. Aprea
12 alluded to as well as Mr. Jones and Mr. Eaton, before any
13 fee increase is seriously considered by the Board to
14 address the fundamental questions. And certainly the
15 export issue is one of those. Where the fees are going to
16 be expended is another area that we would like to see
17 answered before we see any serious consideration of fee
18 increase.

19 You know, we have experience here locally in
20 bidding on contracts for the export of waste by the City
21 of Sacramento. We lost that bid based on the inequity of
22 this fee and where it is collected. By establishing a
23 policy and continuing to establish a policy that, in fact,
24 provides a direct incentive for communities to export
25 waste outside the State and go to facilities that don't

1 have the same protections for environmental public health
2 and safety, it's a travesty.

3 When we bid on the city Of Sacramento's contract,
4 that was the major stumbling block.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Roberti.

6 BOARD MEMBER ROBERTI: Madam Chair, I want to
7 let Ms. Delmatier know that I'm one hundred percent in
8 agreement with her on the point. I mean it is ridiculous
9 that this building does not have -- the trash from this
10 building doesn't go to a domestic landfill where we can
11 collect the fees, but from what I understand that's out of
12 State.

13 So any proposals that we suggest in the future
14 have to also address that question, because if we don't
15 address that question, we aren't engaging even remotely in
16 any type of equity.

17 MS. DELMATIER: I appreciate your comments,
18 Senator.

19 CHAIRPERSON MOULTON-PATTERSON: For the record,
20 and I do agree with the Senator, I think the City of
21 Sacramento, as a whole, ships it out of state. Haven't we
22 made other arrangements for this building?

23 DEPUTY DIRECTOR JORDAN: For this building.

24 BOARD MEMBER ROBERTI: For this building we
25 have. Thank you.

1 CHAIRPERSON MOULTON-PATTERSON: But the City, you
2 know, where we all live --

3 BOARD MEMBER ROBERTI: Those arrangements are
4 relatively recent, aren't they, or have we --

5 MS. BLIHOVDE: A commercial building did not have
6 separate contracts.

7 BOARD MEMBER ROBERTI: I was mistaken, but the
8 point still holds.

9 CHAIRPERSON MOULTON-PATTERSON: But the city is.

10 MS. DELMATIER: But the policy that's in place
11 without changing the point of collection, the policy that
12 is in place directly encourages communities to send their
13 waste outside of the state to facilities that don't have
14 the same environmental protections that's required in the
15 State.

16 And so we are competing against facilities
17 outside this State that don't have the same requirements
18 that we do. And if it's not fair, it's not equitable.
19 And it's not in the best interests of citizens of the
20 State.

21 Secondly, we want to see before any serious
22 consideration of the fee increase, what are those monies
23 going to be spent for, what evaluation has been done that
24 provides some sort of evaluation on the existing programs
25 and any future programs. So we want to see those

1 questions answered before any serious consideration of the
2 fee increase.

3 As Mr. Eaton alluded, in fact, as we continue the
4 success of the Board in the cities and counties throughout
5 the State in meeting the 50 percent diversion rate,
6 revenue will, in fact, decline. And that's a good thing.

7 So maybe all of the programs that have been in
8 place in the past aren't necessarily required for the
9 future as cities and counties and that private industry
10 continue the successes of implementing AB 939. So we are
11 opposed to a fee increase, at this time. And we'd be
12 happy to answer any questions.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Chuck Helget, Allied Waste.

15 MR. HELGET: Madam Chairman, members of the
16 Board, Chuck Helget, representing Allied Waste. Allied
17 Waste, too, is, at this point in time, opposed to the fee
18 increase, not because we necessarily disagree with the
19 program needs that this Board has or the funding needs for
20 the Board, but because of the process that's being
21 followed.

22 And, again, to reiterate, I'm not going to go
23 into the details. I agree with the comments that were
24 made by both Denise Delmatier and Mark Aprea. But there
25 needs to be a detailed discussion of the fee equity issue,

1 but more importantly the tip fee structure, and how a fee
2 is charged or how a fee could be charged to adequately
3 fund the Board's programs.

4 We would be more than happy to participate in
5 that type of discussion. At this point in time, raising
6 the fee only increases the inequities and does not resolve
7 the Boards problems by doing it this way.

8 Again, our concerns basically revolve around the
9 lack of equity right now, the current tip fee structure.
10 The Board, we believe also should be looking at some
11 specific programs. For example, landfill gas to energy
12 has potential needs for additional funding. And we would
13 urge you to take that step first. And I know the Board
14 has done many, many detailed discussions on these topics,
15 but look at those types of programs as possibly dedicated
16 source -- or dedicated programs for the fund before the
17 tip fee increase.

18 Are there any questions?

19 Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you. Mr.
21 Chuck White, Waste Management.

22 MR. WHITE: Thank you Madam Chair, Members of the
23 Board. Chuck White with Waste Management. With respect
24 to the fee increase to \$1.40, Waste Management, while we
25 wouldn't be seeking that necessarily, we certainly would

1 not object to it, if that was the decision of the Board.

2 The only two concerns that we have about
3 increasing the fee from \$1.34 to \$1.40 is number one the
4 transition period and two what is the money going to
5 actually be used for. I believe the staff is proposing
6 that the new fee would be effective July 1. That would
7 be, in our view, a reasonable period of time to allow the
8 transition to change the accounting systems throughout the
9 State necessary to reflect that changed fee. So if it
10 stays with the July 1, we would not object to it.

11 The other and probably broader issue is what was
12 the fee going to be used for. You obviously had some
13 discussion about that, and there clearly is some
14 uncertainty about whether there would be a BCP. We
15 believe that a use of any fee increase, a significant
16 portion, ought to be directed to the kind of issues that
17 are reflected in your sign you have in front of our
18 podium, that is the power crisis here in California, and
19 what can integrated management of waste do to help
20 alleviate that power crisis.

21 So I recognize that specific issue would not be
22 before you today, but I would urge you to keep that in
23 mind as you determine how these additional funds would be
24 used, and we think that helping to address the California
25 power crisis, in fact, should be higher on your list of

1 priorities.

2 With respect to the other issues on the point of
3 collection of the fee, we have no position, at this point
4 in time. We're not necessarily opposed to changes in that
5 record and we'd be happy to enter into further dialogue
6 with the Board and with the Legislature as that issue
7 proceeds.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
9 White.

10 BOARD MEMBER EATON: Could we get your
11 perspective on inerts?

12 (Laughter.).

13 MR. WHITE: Well, I'd be happy to give you -- I
14 mean, the current legislation that's in place was
15 originally designed to give the Board enough time to
16 address the issue through rule-making. I think you
17 pointed out that issue in the Glendale meeting, Mr. Eaton,
18 is unfortunately the Board for a variety of perfectly good
19 reasons has not been able to get the issue of how inerts
20 ought to be regulated through a rule-making process.

21 The legislation that is now intended to provide
22 an amendment is just simply to provide a little more time
23 to give the Board a chance to appropriately address how
24 inerts should be regulated under your authority. And if
25 ultimately a fee is charged for the disposal of inerts, we

1 wouldn't necessarily be opposed to that, as long as it's
2 done uniformly and broadly and fairly to all individuals
3 managing inert waste.

4 Although I think our position would be to suggest
5 that probably inert materials that are like soil, rock,
6 gravel that are being put in from mine reclamation, is
7 that really the disposal of solid waste of that type is a
8 beneficial use of the inert material for a legitimate mine
9 reclamation project.

10 But again, we'd be happy to enter into an ongoing
11 discussion and try to find equitable solutions to address
12 your concerns.

13 BOARD MEMBER EATON: So if I hear you right, you
14 think that inerts could be a part of the equation to what
15 extent there is an open question. And it's my position
16 that it's not charging the fee on inerts, but rather it's
17 a definitional issue, because there has been or was a fee
18 always included in inerts as to what's going to be
19 included as not subject to a fee versus what is. And that
20 can be very limiting with respect to what revenue is
21 generated, depending upon how the definition is
22 interpreted.

23 Now, if that's a new fee, it would be just what
24 is in and what's out as opposed to creating a new fee.

25 MR. WHITE: Exactly. I mean, the earlier staff

1 proposal on inert regulations under the C&D regulation
2 created a tiered structure where clean inerts wouldn't be
3 viewed as a waste disposal activity, but dirty inerts and
4 C&D waste would be considered a disposal activity.

5 But there's a variety of different ways to
6 configure it. I don't think a final decision has been
7 made how this Board through the public process, would
8 ultimately configure that. We certainly would like to be
9 engaged to deal with you on that and have further
10 discussions, and I think everything is on the table for
11 discussion.

12 BOARD MEMBER JONES: Madam Chair.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: One of the things, Chuck, I
15 mean, we were ready to approve the C&D regs when BOE sent
16 out the bills, and then everything got kind of skewed.
17 And so the C&D regs and the inert regs were ready to go
18 forward. They were absolutely ready to be voted on,
19 until -- and then this issue got absolutely spun out of
20 control with the fee issue.

21 So I think that in fairness we've got to -- we
22 really have a set of regs that could go forward tomorrow,
23 I mean, whatever the timing is. And then the issue
24 becomes, you know, the fee issue. And so I think that, in
25 my view, is if the legislation to continue the sunset --

1 to extend the sunset is just so we can do our reg package,
2 I think we can do our reg package, then we don't need the
3 legislation, then we can get to the other issue, because
4 you know, it always bothered me that we were ready to
5 vote.

6 I mean we were ready to vote when this thing got
7 spun. And so I don't think we need legislation. I mean,
8 my own personal view, I don't think the legislation has
9 got to keep going so we can figure out the regs. You
10 know, I think we need to get the regs in front of us and
11 figure out who needs to pay fees.

12 MR. WHITE: My understanding was the Board was
13 doing a survey of all the inert facilities and getting
14 information and would come back to you later this year on
15 the results of that study and survey, at which point in
16 time you would then craft your C&D regulation, and then
17 sometime next year or beyond you'd have a new reg package,
18 reflective of that study. But, again, that's, you know --
19 I'm probably not exactly clear on that.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
21 White.

22 Mr. Eaton.

23 BOARD MEMBER EATON: I think that all the Board
24 members and the speakers are through.

25 CHAIRPERSON MOULTON-PATTERSON: Yes, we are.

1 BOARD MEMBER EATON: We have really made some
2 valid points. And I would tend to agree with each of you.
3 How we piece this together really becomes the crux,
4 because as everyone was mentioning, was nice enough to say
5 about my point about the diversion, the real key question,
6 the reason why I raised it, the revenues are declining
7 because we are doing our job. On the other hand, there
8 are other needs.

9 For instance, yesterday we had an issue with
10 household hazardous waste where we were short. I believe,
11 and I correct me, that those kinds of programs tend to be
12 more expensive than the programs that we have
13 traditionally looked at across the Board that the Board
14 has done.

15 So while the point that I raise is that, I think,
16 there is a case to be made for whatever it is that we've
17 done, we haven't made the case. We know that there's
18 dollars out there. Everyone knows it.

19 As has been mentioned, we haven't looked at
20 how -- what we spend it on or how we spend it. You know,
21 we find monies here or things that have been stowed away.
22 And quite frankly there really wasn't any board
23 information with regard to a pledge until about a couple
24 of years ago that hasn't continued up to this date to
25 remember in spring this year we had a budget briefing, I

1 believe, by each of us.

2 So that, at least, under the current
3 gubernatorial, administration has been opened up to
4 greater scrutiny by the Board Members, not enough quite
5 frankly.

6 And the other issue that I want to bring in, and
7 this is, you know, my sort of political cap coming on, we
8 only get one bite of the apple, and we have to remember we
9 got a fee increase for the tires. And that those who will
10 be looking at it as we do this will say well, they got an
11 increase here, they got an increase there.

12 And so am I saying back off? Absolutely not.
13 I'm saying, we have a case to be made, and I think we have
14 a case to be made for putting together a whole new
15 structure as to how we fund, what problems have confronted
16 us in this -- future, now and in the future, based upon
17 whatever board members think.

18 I think trying to just go within our statutory --
19 was it six cents. We ought to be careful, because that
20 hurt us. I'm not saying that we shouldn't. Did that hurt
21 us in terms of the overall that we need, are we going to
22 be short, because I think we get one bite at the apple.

23 How we do that, I think should be the discussion
24 that we, as board members, have now, what is the best way
25 to begin that process. And a timeframe, I think you've

1 been very timely. I know as gubernatorial appointees no
2 one wants to see fee increases raised at all.

3 I can also tell you that, you know, they will
4 also look at reserves as things get tighter and tighter.
5 And perhaps the former President pro tem can tell us how
6 they had to deal with them, you know, some eight, nine
7 years ago, if it really does really down turn.

8 But we have to make a case, and we have to make a
9 case for what it is. I think, at that point, the speakers
10 in the industry would be behind us, if they could figure
11 out and say this is really a valid program that needs to
12 be funded, they'll be there for us.

13 So as to how we proceed with the discussion, I'd
14 like to have it now, if possible, if others think that
15 that's appropriate.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Who was
17 next over here, was it Senator Roberti or Mr. Paparian.

18 Senator.

19 BOARD MEMBER ROBERTI: I actually wanted to go
20 back a little bit to, I think, a point Mr. White was
21 making on the use of the fee, and just indicate that I
22 hope that the Board creates a position where we would
23 restructure ourselves, so that we put all waste energy
24 proposals under one hat, because that is a very current
25 issue. And the way we're structured right now there's --

1 the tendency is in getting lost in other things.

2 So I actually agree that that is something that
3 we should do. And if we have proposals that are being
4 made, probably could be done working with all the various
5 groups, environmental groups, energy groups and waste
6 management groups to come up with some proposals on an
7 issue that is very, very current and would be a way of
8 reducing our waste stream for hopefully a very beneficial
9 use. It's very controversial, but that doesn't mean it
10 can't be worked out.

11 CHAIRPERSON MOULTON-PATTERSON: Right. And I
12 brought that up at the briefing. And I would certainly
13 like to see, you know, if we decide to come back to this,
14 us working together with industry to see how we could
15 devote this to this very, very real crisis. But I don't
16 know if you're finished yet, Senator.

17 BOARD MEMBER ROBERTI: I'm finished.

18 BOARD MEMBER EATON: Madam Chair, if you'd like
19 to propose it, maybe the thing to do is -- you know,
20 you're so fond of saying some of us have been here a lot
21 longer. I don't have a real good handle of the inventory
22 of what actual programs we spend on waste to energy. And
23 I think that's what you're struggling for, too. So that
24 kind of fits in or dovetails with what the Senator is
25 talking about in terms of how do you bring it all under

1 one umbrella.

2 First, what inventory do we have of what we have
3 now, and that's really where I think you want to go,
4 without putting words in your mouth, to basically get to
5 the point where you can recommend some alternative energy
6 proposals that will be beneficial, because maybe we're
7 funding things at levels that are too high for what we get
8 out of it. And there's maybe some creative thinking, I
9 think, if you have proposals on energy, I'm sure you do,
10 that are much more beneficial to the state and should be
11 funded in lieu of or in addition to. I think how do we
12 get that inventory until we get that inventory.

13 CHAIRPERSON MOULTON-PATTERSON: Does staff feel
14 they could get this together by -- I really -- correct me
15 if I'm wrong, I don't see us voting this increase today.

16 BOARD MEMBER EATON: No, but getting an inventory
17 should be helpful.

18 CHAIRPERSON MOULTON-PATTERSON: But if we can get
19 an inventory and if you could get back to us by the August
20 meeting that's what would be my preference, especially
21 hearing the speakers, because I do -- I would like all
22 industry with us. And, you know, I think we could sit
23 down and reasonably discuss this, especially if we're
24 devoting this to energy and waste to energy, landfill gas
25 to energy.

1 I would certainly hope that industry would be
2 with us. And please correct me if I'm wrong, Mr. Paparian
3 and Mr. Medina, did you want to vote on this resolution
4 today or do you need more information?

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: I feel that the issues
7 are clear. You know, I'll defer to you. If you feel like
8 we should have more time --

9 CHAIRPERSON MOULTON-PATTERSON: So you're ready
10 to vote on this six cents today, is that what you're
11 saying?

12 BOARD MEMBER PAPARIAN: Yes.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

14 BOARD MEMBER MEDINA: Madam Chairman, I'm also
15 ready to vote. I do share Mr. Eaton's concern in regard
16 to how this would affect future legislative action in
17 regard to a fee increase, but I am ready to vote on this
18 matter today.

19 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

20 BOARD MEMBER ROBERTI: I'm ready to vote, but I
21 would defer to the Chair if you have a strong reason --

22 CHAIRPERSON MOULTON-PATTERSON: Well, I just want
23 to make -- from my perspective, you know, I think we
24 should go ahead with the six cents, but, you know, I want
25 to make sure that if we have a legislative proposal, at

1 least that six cents is devoted to energy. And, you know,
2 I need help from staff as to how that's going to happen.

3 But, you know, I can go ahead and, you know, vote
4 but I still want to see you come back with something with
5 energy. And then I think we need to, you know, go ahead
6 with the legislative proposal. And I think that should
7 be -- some part of it should be tied to energy.

8 BOARD MEMBER JONES: Madam Chair?

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I'd like us to think about
11 the point of collection as providing a lot more dollars
12 than the six cents. But I would also like us to look at
13 the inert issue, and at the same time we -- part of the
14 testimony was offered that, you know, how do we get all
15 these -- how do we spend all this money, how does it get
16 allocated?

17 I'll tell you that the last -- since 1997 every
18 dollar that was spent was based on the strategic plan, so
19 I'm glad -- you know, I know that that's important to you.
20 I mean, that's how -- every dollar that was spent had a
21 target on it and said this is strict -- this would be like
22 strategic number one -- not strategic, but whatever the
23 right word was, goal one or whatever since '97 I think.

24 So I do appreciate what you said, because that's
25 absolutely -- I agree with you one hundred percent.

1 One of the things I think that we all need to
2 recognize is these budgets came in front of all of us, so
3 we approved these budgets as board members. And it kind
4 of sounded like you know maybe we didn't. And the dollars
5 we spent are approved by us. The scope of work that we
6 spend is approved by us. Staff doesn't run these things,
7 we run these things.

8 I think what we need to do, and I had a quick
9 discussion with Bonnie a couple of weeks ago or a week
10 ago, under the budget process because it's a confidential
11 document, I guess we can't bill the budget in public. And
12 we can't meet -- I don't know, can we meet in closed
13 session as a board to deal with budget?

14 CHIEF DEPUTY DIRECTOR FISH: (Shaking head.)

15 BOARD MEMBER JONES: The answer a no. She's
16 shaking her head, no.

17 Do you agree with that?

18 Come on AG.

19 (Laughter.)

20 BOARD MEMBER JONES: Think about it, Russell.

21 But that's okay, I asked Russell to think about
22 it. Maybe he can figure out a way that we can.

23 But maybe what we need to do to get a better
24 handle on this is what Bonnie was talking about which is a
25 zero base budget, so that Board members understand what

1 the expenditures are that are important, what are
2 mandated, what we have discretion on, where are the
3 discretionary dollars.

4 Yesterday, we talked about audio casting. It's
5 not a lot of money, but it's \$18,000, that has to come
6 from somewhere. So we need to look out -- I'll tell you
7 what we did four years ago. Each board office was allowed
8 to bring one person to a board meeting that was out of
9 town, because we didn't have any money. We had 50 slots
10 that weren't filled. We had people that we couldn't -- we
11 had divisions that needed people to do fundamental jobs,
12 and we didn't have the money to do it. We couldn't fill
13 it.

14 We had to look at how do we manage what we have.
15 I would ask through the Chair to have discussions with
16 board officers after this meeting to come up with a way
17 that we can manage what we have, in order to meet -- take
18 more of a handle of it, figure out where our dollars are
19 being spent, so that we can make determinations as to
20 where we're going to drop, so we know what we really need.

21 And I think we can do this pretty rapidly. And
22 then determine how do we get there. You know, do we do it
23 through change in the point of collection. Does that give
24 us enough dollars? Is it in combination with point of
25 collection and the six cents? Is it in combination with

1 another legislative proposal.

2 But right now, I'm not comfortable that we are in
3 a position to do that. Sure we can raise the fee. I'm
4 not going to vote to raise the fee, because I think it's
5 important that we look at the point of collection. And I
6 don't want to lose the impact of that.

7 CHAIRPERSON MOULTON-PATTERSON: Why can't we do
8 both?

9 BOARD MEMBER JONES: I tell you what, I'd be --
10 if we're willing to put that proposal forward to do both
11 and to deal with the inerts all at the same time, then I
12 can probably support it. But the one thing that Chuck was
13 saying July 1st was enough time for the industry to put
14 the six cents into the factor.

15 Those of you that have been city council members,
16 board of supervisors, whatever, usually give your
17 operators more time when you have a rate increase to get
18 it in.

19 CHAIRPERSON MOULTON-PATTERSON: Yeah, I was
20 surprised.

21 BOARD MEMBER JONES: I was shocked when he said
22 July 1st. I don't know how you can make that change.

23 DEPUTY DIRECTOR JORDAN: I believe he was
24 speaking of 2002. July 1st, 2002.

25 BOARD MEMBER JONES: July 1st, 2002, well I

1 retract what I said because normally --

2 (Laughter.)

3 CHAIRPERSON MOULTON-PATTERSON: I was thinking
4 that's what he might mean.

5 BOARD MEMBER JONES: That never occurred to me.
6 That absolutely never occurred to me, that it was 2002.

7 I don't know. And my 22 years of experience is
8 out the window, I didn't learn anything in that time.
9 Usually, I can get a rate increase through in three
10 months, three or four months to get that rate structure
11 done.

12 And that would seem to me to be an appropriate
13 time. Thirteen months, may be a stretch, but maybe we go
14 13 months and we do point of collection and we do the
15 inerts, then maybe that would work.

16 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti.
17 I'm sorry.

18 BOARD MEMBER EATON: When would this be
19 effective?

20 CHAIRPERSON MOULTON-PATTERSON: July 1st, 2002.
21 Is that what staff had in mind, because mine was blank and
22 I wasn't sure. I thought that was really generous of
23 Waste Management.

24 DEPUTY DIRECTOR JORDAN: That's what we had
25 discussed in relation to making sure that we get the BCPs

1 in place, et cetera. I know that Mr. Paparian at the
2 briefing had asked if it could be looked at as far as like
3 January 1st, doing early implementation. And, of course,
4 it all depends on the BCP process.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.
6 Thanks for clearing that up.

7 Senator Roberti.

8 BOARD MEMBER ROBERTI: Madam Chair, you had in
9 the long week kind of indicated it would give us a chance
10 to deal with one issue that definitely needs addressing,
11 that is the question of the inerts. I think this Board
12 can move within that amount of time to deal with the
13 equity issue involved there. And then hopefully the more
14 difficult question what we can do about exporting of trash
15 out of state, and we're not collecting the tipping fee.
16 That may take some legislative assistance, but it will
17 give us also a chance to put our proposal forward.

18 CHIEF DEPUTY DIRECTOR FISH: Madam Chairman.

19 CHAIRPERSON MOULTON-PATTERSON: Yes.

20 CHIEF DEPUTY DIRECTOR FISH: If I can make a
21 suggestion. We could take the next six months up until
22 January 1st to put all of these pieces together including
23 the finalization of our strategic plan, going through the
24 BCP process, which is confidential, working with agency as
25 well as the Governor's office with proposals that the

1 Board believes need to go forward, and then January 1st
2 bring these all back together with information that is
3 then included in the Governor's budget and discuss then a
4 fee increase, whether there's a fee attached to inerts
5 through the legislative process, point of collection
6 through the legislative process.

7 You will all then have a picture and a strategic
8 plan which you have presented as well as BCPs that you
9 know have been accepted by the Administration, and come
10 back and fully discuss this with a plan developed in
11 place. And then through the next six months go through
12 the legislative comment process, because then they review
13 the Administration's budget and that can then be in the
14 scheduled meetings with the public participation.

15 See, up until that point in time, we cannot have
16 public participation in the budget process, because it is
17 confidential. And so that would give you all the
18 information and allow you to align your resources to the
19 strategic plan and then move forward with BCP concepts and
20 proposals and know whether or not they have been accepted.

21 BOARD MEMBER PAPARIAN: Madam Chair?

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Yeah. I'd like to --
24 some of those thoughts and suggestions were good. I think
25 there's a chicken and egg issue. At what point do we

1 declare that the fee is being raised and give people, you
2 know, notice and know, in fact, how much money is going to
3 come in.

4 So what I'd like to do is go ahead and put the
5 motion on the table and see where we go with it. And so
6 I'd like to move resolution 2001-216 with the resolved
7 reading that the Board approves an increase in the IWM fee
8 from \$1.34 per ton to \$1.40 cents per ton to be effective
9 July 1st, 2002. I'd also like to in that over the next
10 few months we then work to come up with some of the
11 proposals that have been discussed, the inerts, the point
12 of collection, how we might earmark some of this money for
13 energy use and so forth.

14 So that's my motion.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. So it
16 would probably look at the export issue, point of
17 collection, the inerts and how we could help in the energy
18 crisis.

19 BOARD MEMBER PAPARIAN: Correct.

20 BOARD MEMBER MEDINA: I'll second that motion.

21 CHAIRPERSON MOULTON-PATTERSON: Okay.

22 BOARD MEMBER JONES: Madam Chair.

23 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

24 BOARD MEMBER JONES: Just a comment, that the
25 six-month hiatus to deal with it that Karin Fish was

1 talking about, actually makes a lot of sense, because the
2 tire fee, if it gets out and we start getting those funds,
3 are going to in about 33 or \$34 million to our budget.

4 And clearly that 33 or \$34 million is going to
5 have an impact on programs. It's also going to have an
6 impact on what we do and how we move some things around to
7 better manage this facility. But what that does is it's
8 adding a huge piece of money to the budget of this place.
9 And at the same time we're saying and we want another six
10 cents on this, and we want to look at point of collection
11 and we want to look at inerts.

12 I think that we are -- I think, I agree with Mr.
13 Eaton when we says that, you know that we only get one
14 bite of the apple. And the perception that we're getting
15 a \$35 million increase even though it is in tires could
16 negatively affect us when we talk about point of
17 collection. And while I got excited when you had
18 suggested that we could do them all at the same time, I'm
19 worried about the perception. I'm also worried in an
20 election year when we're getting \$34 million that another
21 two or three million may not be the message that we want
22 to be carrying until we know.

23 And maybe in six months, seven months we're going
24 to know what the impact of that tire fee is. So I'm not
25 going to be able to support -- in fact, I'm going to offer

1 an alternative motion, Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Okay.

3 BOARD MEMBER JONES: My alternative motion is
4 that we continue this item for six months while we develop
5 the background of what this is going to take, how the fee
6 would look, also at the same time working on a legislative
7 project for point of collection and the inert waste
8 stream.

9 BOARD MEMBER EATON: And I'll second it just so I
10 can have a chance to perhaps maybe convince my colleagues
11 that Mr. Jones is on the right track here.

12 I don't have any problems with the fee, but think
13 about what we're doing here. We're declaring a fee
14 increase and then we're telling the public then we're
15 going to go figure out why we need the fee increase. I
16 mean, that's really what we're doing here. And that to me
17 is just putting, you know, the cart before the horse here.

18 Yes, there is a need, but how do we justify to
19 the public when the tire fee was being promulgated? I
20 think at one point we all saw what the local retailers
21 were doing. Due to the State of California, we have to
22 charge you \$3. You don't think over the next year that as
23 this increase that is about to be voted on, if it is
24 successful, isn't going to have the same result in the
25 public arena?

1 And when people begin to question us, what is our
2 response? Well, we raised the fee, but now we're going to
3 go back and look at as to how we're going to spend it. I
4 think, I believe, that there is a way to accomplish, Mr.
5 Paparian, what you're trying to reach, and I don't have
6 any problem with that, you must understand that, you must
7 believe me.

8 What you didn't even put in your motion whether
9 or not Madam Chair's BCP is going to be part of it. You,
10 under your motion, cannot do her energy, under your
11 motion. That was what staff talked about. If you're
12 going to use it for other alternatives, then you must
13 approve a BCP. That's the kind of -- we don't need that
14 kind of public policy making here. We're a much brighter
15 group of individuals and a much smarter and a much more
16 far-thinking group of individuals here to look at that.

17 The way to do it is similar to what Mr. Jones', a
18 prudent BCP process, get going, say in three months we're
19 going to basically go out and get our information
20 together. More importantly, I think we could have some
21 hearings around the State. We are going, you know, to
22 southern California a couple of times. It doesn't have to
23 be special meetings.

24 I just have a hard time, from a process
25 standpoint approving something and then telling people,

1 yeah, now we're going to go find a reason -- we're going
2 to explain to you the reasons why we're doing it. That's
3 not, I don't think, your intention. I'm not accusing you
4 of that. Please believe me.

5 I'm just trying to get the right process so that
6 we can be defending. I personally like the fact of going
7 for a statutory increase, because I think we have a higher
8 need and cost factor as raised programs continue to get
9 greater diversion for those programs that we don't have
10 the ability to fund right now or that we don't fund at a
11 proper level, whether that be, you know, household
12 hazardous waste, you know, antifreeze, you know, Ewaste,
13 whatever it may be.

14 I'm not trying to get your pet projects, but I'm
15 just saying, those kinds of things. How are you going to
16 defend to the Administration the fact that the rates
17 increased and we're now going to go out and explain to
18 people and need more information now.

19 And also, I mean, under the motion, you've got --
20 if you want to, you know, support the Chair's thing on
21 energy, then you've got to put the BCP in, that's what you
22 just heard, and that's what the Governor's office wants.

23 CHAIRPERSON MOULTON-PATTERSON: I could support
24 the substitute motion if it was tied to the BCP or however
25 we do it. And if you said come back in August. This

1 is -- we need this now.

2 BOARD MEMBER EATON: Absolutely.

3 CHAIRPERSON MOULTON-PATTERSON: The crisis is
4 now. Could you do that?

5 BOARD MEMBER JONES: Yeah, You're saying to
6 continue this. My motion was to continue it for six
7 months, but you want me to come back in August with how
8 we're going to deal with point of collection, how we're
9 going to deal with inerts how we're going to deal with the
10 BCP?

11 CHAIRPERSON MOULTON-PATTERSON: Well, I just
12 want -- I want to see the six cents part of it done. I
13 mean, you told me in 1996 that industry, everybody was
14 ready to go. And here it's 2001 and we're having -- you
15 know, we're having a huge energy crisis and if we can't
16 vote six cents and devote it to energy, I don't think
17 we're doing our part.

18 BOARD MEMBER JONES: Right, but I think what Mr.
19 Eaton was saying is that we may not be able to get the BCP
20 approved for energy to use the six cents.

21 CHAIRPERSON MOULTON-PATTERSON: But we can sure
22 try.

23 BOARD MEMBER JONES: So let's use the next six
24 months and see if we can do that.

25 BOARD MEMBER ROBERTI: Madam Chair.

1 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti.

2 BOARD MEMBER ROBERTI: I would love to be able to
3 devote the six cents to energy, but that is not addressing
4 what, in my mind, is the very immediate need for the six
5 cent increase that has just come upon us. The Legislature
6 voted two days ago, or one of the Committees, to take the
7 money out of -- to clean the Los Angeles River, to take
8 the money out of our small counties -- farmer ranch fund,
9 which I understand is committed money.

10 Then that was changed and yesterday -- and I
11 support the cleanup of the LA River, absolutely, don't get
12 me wrong.

13 BOARD MEMBER EATON: Perfectly clear.

14 BOARD MEMBER ROBERTI: It's a high priority, high
15 priority --

16 (Laughter.)

17 BOARD MEMBER ROBERTI: -- for any number of
18 reasons, some of which I won't speak about.

19 (Laughter.)

20 BOARD MEMBER ROBERTI: But then yesterday they
21 took the money out of our General Fund.

22 CHAIRPERSON MOULTON-PATTERSON: 2136, I believe.

23 BOARD MEMBER ROBERTI: Excuse me, 2136.

24 BOARD MEMBER JONES: Yes.

25 BOARD MEMBER ROBERTI: So the point is that for

1 the six cents I don't believe we're looking at a new
2 program that hasn't been specified. We are trying to keep
3 our nose above water just to maintain where we are.

4 So that is what really, in my mind, is pressing
5 my vote over and before what I would ever contemplate a
6 week ago.

7 Now, as far as waste to energy, I think that's
8 going to take a lot more time. It's going to take some
9 work, and certainly we should do absolutely nothing
10 further until we take care of the inequity of the inerts,
11 which are a glaring inequity and we have a general program
12 that we have to involve ourselves in.

13 But right now we're juggling balls of trying to
14 figure out how we take care of more than one thing that
15 are on our plate right now, that we have to engage in on a
16 \$1.34 fee, which is becoming fewer and fewer dollars with
17 every passing month. So it's not a question of not having
18 a program. The program is in place right now and we don't
19 have the money to do what we're supposed to be doing right
20 now, and that's why the \$1.34 to \$1.40.

21 I absolutely understand industry's desire to have
22 lead time. And I think we are being fair by giving them
23 12 and a half months. I mean that's fair and nobody wants
24 to press industry and force them to move in an arbitrary
25 or vindictive fashion on the part of the Board. That's

1 not the point. We are trying to keep pace and we are not
2 keeping pace with what we have to do.

3 I'd love to talk about the new program. I
4 absolutely agree with Mr. Eaton that we cannot discuss a
5 fee increase on something new, if we don't have the new
6 thing in place. It's the last thing that will sell with
7 the Legislature. The only thing that sells less is not to
8 have spent your money that you already have, because that
9 invites a taking, and that's not a popular way to go
10 either.

11 So we're just trying to keep our nose above water
12 with what we have on the agenda and what the Legislature
13 has given us to do. Some of the pressure for cleaning up
14 the LA River is coming from the Legislature,
15 understandably, righteously, but that's just more money
16 that we need to do it.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you. Mr.
18 Paparian was next.

19 BOARD MEMBER PAPARIAN: I think the BCP issue
20 that's been talked about, it's a recipe for long delays in
21 dealing with this issue. I think we should just vote and
22 vote up or down basically whether we're going to go with
23 the \$1.40 or not.

24 You know, I, for that reason, oppose this
25 substitute motion. I suggest we just get to the vote and

1 get this over with.

2 CHAIRPERSON MOULTON-PATTERSON: Okay.

3 Mr. Medina, then we'll vote on the substitute
4 motion.

5 BOARD MEMBER MEDINA: Madam Chair, I base my
6 support of the increase in the fee to the statutory limit
7 based on the arguments that the staff made in their
8 recommendations, the loss of the purchasing power of the
9 fee due to inflation, the fact that the average California
10 landfill tipping fees have kept pace with inflation, and
11 projects which will be stemming from the new strategic
12 plan under development.

13 And that's why I support the recommendation to
14 raise the fee. I am concerned about the loss of dollars
15 of shipping waste out of State, the inerts and the point
16 of collection as well as the use of some of the six cent
17 fee for waste related projects.

18 However, I do think that the arguments have been
19 made and put together by staff in recommending the
20 increase. I think those are very valid and that's what I
21 base my support for the increase.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you. And
23 we need to vote on the substitute motion first, I believe.
24 And Mr. Jones could you restate your motion so we can vote
25 on it.

1 BOARD MEMBER JONES: Yes, Madam Chair. My
2 alternate motion is to continue this item for six months
3 and develop point of collection data and a proposal inert
4 data and a proposal, the impact of the tire fee on the
5 CIWM, and explore a BCP on using whatever increases we get
6 towards the energy, and explore our expenses. And then we
7 still have seven months, if we decide in six months, the
8 industry would have seven months to implement the plan,
9 which is plenty of time to do a rate increase that mirrors
10 this.

11 BOARD MEMBER EATON: I second the motion. And
12 I'd just like to say that I also think that at this
13 critical time that the Legislature is deciding the fate of
14 our budget, I would rather have our budget secure and then
15 have a vote on getting additional funds. Because if this
16 money is not -- the additional fee would go to our General
17 Fund IWMA; is that correct?

18 CHIEF DEPUTY DIRECTOR FISH: (Nodding head.)

19 BOARD MEMBER EATON: If there's any fund that
20 would be vulnerable to theft for a reason that they could
21 create a nexus unlike used oil, which has to have a nexus
22 to oil, but they could use it for any waste related kinds
23 of issues, they could actually access the special fund,
24 because it is the General Fund.

25 I don't know why we would want to vote for the

1 fee increase before our budget is secured, but be that as
2 it may --

3 BOARD MEMBER PAPARIAN: Point of clarification,
4 you know. As I understand my own motion, it does not
5 relate to the budget year that the Legislature is now
6 considering. It relates to the budget year 2002/2003.

7 BOARD MEMBER EATON: It doesn't make a
8 difference, they can still cut it.

9 CHAIRPERSON MOULTON-PATTERSON: I'm very aware we
10 have a substitute motion on the floor with a second, but
11 I'm going to ask for a ten-minute break right now, and
12 then we'll vote when we come back.

13 (Thereupon a brief recess was taken.)

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones, would
15 you please restate your substitute motion? I'd like to
16 see a much shorter time line.

17 BOARD MEMBER JONES: Okay. Madam Chair, based on
18 a shorter time line, I would like to continue this item
19 and direct staff to have a workshop on the first week of
20 August to talk about -- to develop the point of collection
21 for the IWMA fee, to deal with the inert issue. We're
22 going to discuss the impacts. We may not have a fully
23 disclosed -- but the impacts of the tire fee on the CIWMB.
24 We're going to develop a BCP for the energy component of
25 any fee increase, and then after that August workshop --

1 or that first week of August workshop, there would be a
2 discussion item to come back in the first week of
3 September after whatever holiday, Labor Day, I guess, for
4 a consideration item to act on the recommendations and
5 findings that were developed out of that August workshop.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Do we have
7 a second for Mr. Jones.

8 BOARD MEMBER EATON: I'll second that motion.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Call for
10 the question?

11 SECRETARY VILLA: Eaton?

12 BOARD MEMBER EATON: Aye.

13 SECRETARY VILLA: Jones?

14 BOARD MEMBER JONES: Aye.

15 SECRETARY VILLA: Medina?

16 BOARD MEMBER MEDINA: No.

17 SECRETARY VILLA: Paparian?

18 BOARD MEMBER PAPARIAN: No.

19 SECRETARY VILLA: Roberti?

20 BOARD MEMBER ROBERTI: No.

21 SECRETARY VILLA: Moulton-Patterson?

22 CHAIRPERSON MOULTON-PATTERSON: Yes.

23 Okay, the motion fails. I'm afraid we might have
24 another motion fail.

25 BOARD MEMBER JONES: Madam Chair.

1 CHAIRPERSON MOULTON-PATTERSON: Yes.

2 BOARD MEMBER JONES: May I offer that I
3 understand the need to deal with the fee issue. The
4 original motion is going to put in place a fee that would
5 become effective July 1st, 2002. I submit that there is
6 plenty of time based on an August workshop and a September
7 special meeting that the outcome of that could still be
8 made effective July 1st, 2002 if that would give members a
9 comfort level.

10 I mean, I'll commit that I can support -- I'll be
11 more than happy to support whatever outcome comes of that
12 meeting, that it becomes implemented on July 1st, 2002,
13 which mirrors the existing one, but this would give us a
14 chance to not only develop the energy BCP, which I think
15 is critical and I know the members are very, very
16 committed to, but it will also give us a chance to really
17 get into the export issues and the point of collection
18 issues and what that benefit will be in conjunction with
19 the other fees.

20 And I would hope and ask, you know, otherwise I
21 think you're right -- I think that another motion may
22 fail, and then I don't know where we go from there.

23 CHAIRPERSON MOULTON-PATTERSON: Well, okay. So
24 we have a main motion on the floor, and it is seconded. I
25 would ask the maker of the motion to, you know, for my

1 support, if you could be more specific about tying it to a
2 BCP for energy. Are you willing to do that?

3 BOARD MEMBER PAPARIAN: Yes. And let me get some
4 clarification here, and this is where I -- the BCP process
5 okay, is such that, you asked for a -- you prepare a BCP
6 and send it to Finance, right?

7 DEPUTY DIRECTOR JORDAN: We prepare a BCP, submit
8 it to agency for review and if it's approved at agency, it
9 goes to Finance.

10 BOARD MEMBER PAPARIAN: Right. And the BCP is
11 for a budget change, in fact, that's what it's called,
12 it's a budget change proposal, right?

13 DEPUTY DIRECTOR JORDAN: That's correct.

14 BOARD MEMBER PAPARIAN: And it's based on
15 diverting revenues we expect to have, right?

16 DEPUTY DIRECTOR JORDAN: It would be for a change
17 in program or increased expenditure authority, which is
18 what we would be asking for if you're increasing the fee
19 for a specific reason.

20 BOARD MEMBER PAPARIAN: Okay. If we don't
21 increase the fee, submitting a BCP to me seems like -- it
22 seems like a not starter with Finance. If we sent over a
23 BCP, I'm just trying to clarify what it is we're asking.

24 CHAIRPERSON MOULTON-PATTERSON: I'm not saying
25 don't increase the fee.

1 BOARD MEMBER PAPARIAN: I know. I'm trying to
2 help our folks down at the end of table, too.

3 DEPUTY DIRECTOR JORDAN: As long as you're
4 practicing --

5 BOARD MEMBER EATON: Would that be me, Mr.
6 Paparian you're trying to help? You can refer to me by my
7 name.

8 (Laughter.)

9 DEPUTY DIRECTOR JORDAN: As long as you're
10 prefacing the BCP that the Board is taking a vote on
11 increasing the fee, that will justify that BCP. Now, the
12 fact that it hasn't been voted in yet, you know, it would
13 be a negotiating factor with Finance. And then it has to
14 go to the Governor's office from that point and then to
15 the Legislature if it's approved.

16 BOARD MEMBER PAPARIAN: Okay. So the change that
17 I'm accepting is that we do, in the motion, in that there
18 will be development of an energy related BCP to come back.
19 Does it need to come back to us for review?

20 CHAIRPERSON MOULTON-PATTERSON: I thought they
21 were confidential.

22 DEPUTY DIRECTOR JORDAN: They are confidential.

23 BOARD MEMBER PAPARIAN: Okay. It would be
24 development of an energy related BCP. Do we need a time
25 on that Madam Chair?

1 CHAIRPERSON MOULTON-PATTERSON: Well, when does
2 it need to be -- when is the deadline at getting it in?

3 DEPUTY DIRECTOR JORDAN: The concepts are
4 currently going to be looked at the beginning of July by
5 agency. Your actual full BCP's are due to agency late
6 August and to Finance in September.

7 CHAIRPERSON MOULTON-PATTERSON: Well, I'd imagine
8 they'd start -- we have a lot of people that are already
9 working on this, so I imagine it could be done right away.

10 BOARD MEMBER PAPARIAN: Okay, so the time -- we
11 can work within the timeframe. We understand that, and so
12 it could be done, we don't need to put a date certain in
13 the motion.

14 CHAIRPERSON MOULTON-PATTERSON: Energy projects,
15 staff. Okay, I'm sorry.

16 BOARD MEMBER PAPARIAN: Energy projects, is that
17 the way you wanted it worded?

18 CHAIRPERSON MOULTON-PATTERSON: No, I was just
19 saying I wanted to clarify. We didn't have people working
20 on the BCP already, but we had them -- we have staff
21 that's already working on energy projects, so it's not
22 like starting at ground zero on the BCP.

23 BOARD MEMBER PAPARIAN: Okay. I think we're
24 clear.

25 CHAIRPERSON MOULTON-PATTERSON: Okay, is that

1 okay with you, Mr. Medina?

2 BOARD MEMBER MEDINA: I just had a question in
3 regards to the BCP and whether the BCP would be based on
4 the six cents being totally used for an energy related
5 project?

6 CHAIRPERSON MOULTON-PATTERSON: You know, I want
7 to be reasonable here, but, you know, I know I agree with
8 Senator Roberti, I agree with all of you that we've got an
9 awful lot of other needs too, but we're facing a crisis in
10 this state like never before. And, you know, I'd like to
11 make some statement that we are going to do something, and
12 that's my whole thought in at least a portion of the six
13 cents going to energy related landfill to gas, whatever,
14 so we can do our part to help with the energy crisis.

15 BOARD MEMBER PAPARIAN: I assume when you put
16 together the BCPs you work with the Chair's office?

17 DEPUTY DIRECTOR JORDAN: The Chair's office has
18 final review.

19 BOARD MEMBER PAPARIAN: So hopefully that will
20 take care of review and assurance that it's been dealt
21 with responsibly in comparison to the rest of the budget
22 related issues.

23 BOARD MEMBER MEDINA: And the reason that I raise
24 that issue is because I supported a fee increase again due
25 to the inflation factor and the other factors that the

1 staff included in their recommendation. And so I want to
2 make sure that those considerations are taken care of, and
3 you know, I support energy related projects, but I want to
4 see that those issues that were raised by staff are
5 addressed also.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Call for
7 the question.

8 Excuse me, Mr. Jones.

9 BOARD MEMBER JONES: Just one question, Madam
10 Chair. Then based on this motion what we're talking about
11 is the six cents, we're not talking about the point of
12 collection. We're not talking about fee equity. We're
13 not talking inerts. So any BCP that gets written, gets
14 written for a total of the six cents. It doesn't look at
15 anything else.

16 BOARD MEMBER PAPARIAN: Yes, it does. My
17 original motion included that staff would come back within
18 the next few months and let me make it more specific
19 within the next -- by the September meeting with an agenda
20 item related to the things we just talked about, the point
21 of collection, and out of state, inerts and so forth. So
22 that was in the original motion.

23 BOARD MEMBER JONES: Mr. Paparian, just a
24 question. The motion that I put together that I had
25 offered as an alternative that would have included all

1 those things, would have also included a workshop, so that
2 we could spend the day going through these issues trying
3 to figure out what the impacts are, trying to figure out
4 the legalities, you know, the different point of
5 collection issues and the things that surround that.

6 And it sounds like the only difference between my
7 alternative motion and yours, as you just stated it, is
8 that we're presupposed to increasing the fee a July 1st,
9 2002 by six cents, but aren't we excluding the ability to
10 look at what the impact of point of collection and stuff
11 is.

12 It would seem to me that that's the only
13 difference between our two motions is I'm asking for a
14 workshop and a special meeting in September to look at the
15 three components to determine what the total impact of
16 those potential revenue dollars would be on this Board and
17 work through where we would collect it, how we would
18 collect it, what the legal impacts are to it, and then
19 having a meeting in September to vote on the results of
20 that as well as voting on the six cents, and it not be
21 implemented until July 1st, 2002.

22 So all I've asked differently than yours is to
23 today not vote for the six cents, to vote for it in
24 September, but to have a workshop to more fully understand
25 the impacts. And it's not to circumvent the six cents. I

1 don't know the -- I'm not too worried about this.

2 BOARD MEMBER PAPARIAN: Is this a question?

3 BOARD MEMBER JONES: It is a question, and it's
4 -- I mean, it's -- the fundamental difference between the
5 two, maybe that we have one package that includes a six
6 cents, includes the point of collection and includes the
7 inert issue as opposed to this motion which just includes
8 the six cents and then a discussion.

9 And I think the difference could be in the
10 millions of dollars. And I'm not saying don't vote on the
11 six cents. My motion says let's do it on September 1st
12 and make it effective, whatever the outcome is, on July
13 1st 2002.

14 So we're not talking about a whole lot of
15 difference here other than a workshop to fully understand
16 those issues that are critical. And I think the six cents
17 today ends up minimizing the impact of point of
18 collection, and that's a fee equity issue that's basically
19 the same as our permitting issues. The real players end
20 up living by the rules and getting beat up once in awhile
21 when they make a mistake and the guys that are outside of
22 the permit boundaries run amuck.

23 So I would really ask you to think about -- just
24 all I've asked for is that workshop and to include those
25 issues. That's the only difference. And I think that we

1 have a better understanding at the end of the day. I
2 would hope -- and you have -- I'll make it part of the
3 motion that any outcomes become effective September 1,
4 2002, if I'm able to restate. That's the only difference
5 between your motion and mine is the fact that we would
6 have a August 1st deadline -- I mean August 1st workshop,
7 a September meeting and then looking at the whole pie as
8 opposed to one piece of the pie.

9 BOARD MEMBER PAPARIAN: You know, I think the
10 motion speaks for itself. I'm comfortable with having a
11 workshop to discuss the issues that are mentioned in my
12 motion. I think that would be fine to do, but I think the
13 issue of the fee increase is clear and we ought to just
14 vote on it.

15 CHAIRPERSON MOULTON-PATTERSON: Okay, Call for
16 the question.

17 SECRETARY VILLA: Eaton?

18 BOARD MEMBER EATON: No.

19 SECRETARY VILLA: Jones?

20 BOARD MEMBER JONES: No.

21 SECRETARY VILLA: Medina?

22 BOARD MEMBER MEDINA: Yes.

23 SECRETARY VILLA: Paparian?

24 BOARD MEMBER PAPARIAN: Aye.

25 SECRETARY VILLA: Roberti?

1 BOARD MEMBER ROBERTI: Aye.

2 SECRETARY VILLA: Moulton-Patterson?

3 CHAIRPERSON MOULTON-PATTERSON: Aye.

4 And I would like to suggest that we do have a
5 workshop in August, because there is a difference of
6 opinion in here on export, point of collection and the
7 issues that have been brought up.

8 We'll move to Item 29 or did you want to take a
9 lunch break?

10 Okay, we'll recess until 1:30.

11 (Thereupon a lunch recess was taken.)

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1 AFTERNOON SESSION

2 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
3 the meeting back to order. Thank you. We're on item
4 number 29, but before we do that, we'll start with Mr.
5 Eaton, ex partes.

6 BOARD MEMBER EATON: Just Mark Aprea, just a
7 quick hello and how are you.

8 CHAIRPERSON MOULTON-PATTERSON: Okay.
9 Mr. Jones?

10 BOARD MEMBER JONES: Denise Delmatier and George
11 Larson.

12 CHAIRPERSON MOULTON-PATTERSON: Okay, Mr. Medina.

13 BOARD MEMBER MEDINA: John Kupps in regard to the
14 fee increase.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.
16 Paparian.

17 BOARD MEMBER PAPARIAN: Yeah Gary Liss regarding
18 the strategic plan. George Larson regarding energy issues
19 and John Kupps regard the fee increase.

20 CHAIRPERSON MOULTON-PATTERSON: And I have none.
21 Okay. I'll turn this over to Ms. Packard.

22 ASSISTANT DIRECTOR PACKARD: Thank you. Good
23 afternoon, Madam Chair and Board members. Rubia Packard
24 with the Policy Office. And I'm presenting Agenda Item
25 29, which is Consideration Of An Environmental Justice

1 Mission Statement And Discussion Of And Request For
2 Direction On the Workplan To Develop The Board's
3 Environmental Justice Strategy.

4 In April of this year, the Board directed staff
5 to develop options for consideration of an environmental
6 justice mission statement and to develop a more detailed
7 workplan for an environmental justice plan strategy here
8 at the Board for discussion. This item presents these
9 options and a draft workplan as directed.

10 In this item we are requesting that the Board
11 give us direction on both the mission statement language
12 and the workplan. But before I go through the item in
13 more detail, I would like to introduce Romel Pascual, who
14 is the Assistant Secretary for Environmental Justice with
15 CalePA. He would like to address the Board about
16 environmental justice.

17 Mr. Pascual is on an inter-governmental personnel
18 assignment from USEPA and was brought to CalePA because of
19 his experience and expertise in this area. So he'd like
20 to address the Board at this time.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you. And
22 welcome Mr. Pascual. We're glad you're here.

23 CALEPA ENVIRONMENTAL JUSTICE ASSISTANT SECRETARY

24 PASCUAL: Thank you. Madam Chair, Board Members, good
25 afternoon and thank you for listening.

1 CHIEF DEPUTY DIRECTOR FISH: Have him take a seat
2 Rubia and take a mike.

3 ASSISTANT DIRECTOR PACKARD: Just sit up here.

4 CHAIRPERSON MOULTON-PATTERSON: This is more
5 comfortable anyway.

6 ASSISTANT DIRECTOR PACKARD: Is this one on?

7 CHAIRPERSON MOULTON-PATTERSON: Thank you. Sorry
8 about that.

9 CALEPA ENVIRONMENTAL JUSTICE ASSISTANT SECRETARY
10 PASCUAL: Good afternoon, and thank you for this
11 opportunity to speak to you today on a very important
12 issue, the issue of environmental justice. I am Romel
13 Pascual, the Assistant Secretary for Environmental Justice
14 at CalEPA.

15 Environmental Justice is one of the priority
16 goals set forth in the agency's strategic vision. As
17 you're aware, California passed two landmark pieces of
18 legislation, Senate Bill 115 and Senate Bill 89. An
19 overview SB 115 gives the California Environmental
20 Protection Agency broad responsibilities to include
21 environmental justice in a design and implementation of
22 programs, policies and activities and the implementation
23 of enforcement efforts and a design of public
24 participation activities, and in conducting health and
25 environmental research and data collection.

1 Wile SB 115 lays out broad responsibilities for
2 the agency, AB 89 lays out a structure through which the
3 agency operationalizes environmental justice goals. SB 89
4 establishes a formation of an interagency working group
5 made up of CalEPA's Secretary, the heads of the BDO's and
6 the Director of the Governor's office of Planning and
7 Research.

8 At the same time, the bill also establishes the
9 formation of an external advisory committee to the working
10 group. It will be the function of these two groups to
11 assist CalEPA in developing an agency wide environmental
12 justice strategy and provide procedural recommendations on
13 a wide variety of EJ related activities.

14 This marks the first time that any state has
15 adopted environmental justice legislation. And more
16 importantly, this represents a tremendous opportunity for
17 CalEPA and the Boards to provide leadership and to be
18 proactive in addressing environmental justice.

19 In general, environmental justice tells us that
20 this environment is a series of linkages amongst cultural
21 values, environmental health, social dynamics and
22 economics. I think we all share the belief that all
23 communities have a fundamental right to a safe and healthy
24 environment, and that no segment of the population should
25 bear disproportionate burdens on environmental pollution.

1 Earlier this year, CalEPA released its draft
2 mission statement on environmental justice, along with
3 program elements to encourage the direction in how we all
4 carry out our EJ obligations. In developing the mission
5 statement, the environmental justice coordination group,
6 with representatives of all BDOs, was pulled together to
7 draft a mission statement.

8 The agency will continue to seek broad public
9 input before finalizing it. As we all know, environmental
10 justice has been a national issue for quite some time, and
11 there have been a variety of strategies explored and
12 implemented at the national level that we at the state can
13 benefit from.

14 In fact, one can argue that both SB 115 and SB 89
15 are modeled after the efforts at the national level. A
16 couple a months ago, when I came on board, one of the
17 first things we needed was to get a sense of how,
18 currently, CalEPA and its board and its departments were
19 addressing environmental justice.

20 The inventory of EJ activities, which I believe
21 you have a copy of now, reflects just a snapshot of
22 efforts currently under way in the agency. It was clear
23 from the inventory that CalEPA and the BDOs had begun
24 addressing environmental justice in a variety of ways.

25 For example, we have become more aware for the

1 need to consider environmental justice and the way we
2 conduct outreach efforts. DTSC, for example, incorporated
3 environmental justice into its draft public participation
4 guidance policy and guidance manual to be used by DTSC
5 staff and to clean up site mitigation and site
6 characterization processes.

7 We also recognize the need to ensure that
8 translation to engage populations affected by decisions we
9 make are there to be fully -- I'm sorry, in the decisions
10 that we make but have not fully participated in the
11 process because of language barriers.

12 We have utilized our traditional enforcement
13 tools to make tangible, environmental improvements in
14 communities impacted by environmental pollution, both in
15 rural and urban settings. DPR, for example, has embarked
16 on an enforcement effort in the border region, where the
17 impact of pesticides exposure affects predominantly
18 immigrant and communities of color.

19 In another example, DTSC partnered with USEPA as
20 well as with the local CUPAs on an initiative in Los
21 Angeles. In that initiative it looked at communities in
22 south central LA east LA and southeast LA to enforce -- to
23 do enforcement activities on hazardous waste sites and
24 hazardous materials sites.

25 This effort led to US EPA assessing approximately

1 \$290,000 in fines related to ten violations of hazardous
2 waste facilities. We have also begun to address
3 environmental impacts in communities and in sensitive
4 populations such as children. These assessments will give
5 us a more informed baseline in our effort to reduce
6 environmental exposure.

7 For example, the Waste Board's approval to assess
8 the impact of the waste stream a minority communities
9 demonstrates such an effort. Additionally, ARB initiated
10 a neighborhood assessment program to monitor air quality
11 in environmental justice communities. Barrio Logan in San
12 Diego is the first of those projects, as well as Barrio
13 Logan being one of the national EJ demonstration pilot
14 projects.

15 I've provided these examples to illustrate that
16 environmental justice efforts are under way and that we
17 can all build on and learn from these experiences to guide
18 all of our work towards achieving environmental justice.

19 As I mentioned earlier, environmental justice is
20 a priority For CalEPA and the goal of environmental
21 justice is part of the agency's strategic vision. There
22 exists a wide range of avenues by which we can meet our
23 commitment to environmental justice.

24 In doing so, we must look at opportunities and
25 efforts that make sense and are consistent toward the

1 obligations under existing legislation. We should explore
2 opportunities to promote environmental justice awareness
3 among staff at CalEPA. Understanding environmental
4 justice is a first step to effectively incorporate EJ into
5 the decision making process. Promoting and understanding
6 issues surrounding EJ requires a deliberate and mindful
7 approach in how one applies EJ to their daily work.

8 We have already begun to work with the USEPA on
9 providing EJ training to staff. In fact, we've provided
10 three trainings in the past three months. We plan to
11 continue these efforts in the future.

12 We will need to explore opportunities to ensure
13 greater public participation in our decision making
14 processes. A comprehensive approach to identifying and
15 addressing environmental justice concerns requires the
16 earlier involvement of affected communities and other
17 stakeholders. Additionally, approaches to effectively
18 address environmental justice issues requires
19 partnerships, the leveraging of resources and
20 coordination.

21 By assessing and incorporating the expertise of
22 locally affected communities, members throughout the
23 public participation process will foster a more informed
24 decision making process on the part of the agency.

25 At the same time, we also have to pay attention

1 to the reality that not all stakeholders come equally
2 equipped to participate fully in the process. We should
3 identify early on such obstacles as language, access to
4 information, technical understanding of documents that
5 become barriers for meaningful participation.

6 We also need to promote enforcement of all health
7 and environmental statutes within CalEPA's jurisdiction in
8 a manner that ensures the fair treatment of people of all
9 races, cultures and income levels, including minority
10 populations and the low-income populations in the State as
11 mandated by SB 115.

12 Strong and effective enforcement and
13 environmental and civil rights laws are fundamental to
14 virtually every mission of CalEPA. We need to be mindful
15 that conditions affecting communities of color in
16 low-income neighborhoods, whether in rural or urban areas,
17 can result from multiple exposures, high-level exposures
18 from single source, and chronic noncompliance.

19 SB 115 emphasizes existing environmental laws
20 provide opportunities to address environmental conditions
21 in EJ areas.

22 We will need to promote meaningful research and
23 data collection to gain a better understanding of
24 environmental justice concerns. The cornerstone of
25 informed decision making is the need to have a grasp of

1 the wide range of issues impacting communities.

2 This is vital to the agency, and its ability to
3 provide objective, reliable and understandable information
4 for our programs and stakeholders.

5 In order to capture the comprehensive nature of
6 EJ, it would benefit us well to work hand-in-hand with our
7 affected communities, our sister State agencies, federal,
8 tribal and local governments and other stakeholders to
9 ensure that the most appropriate and best information is
10 available to identify and address disproportionately high
11 and adverse human health or environmental effects on
12 minority population and low-income populations.

13 And finally, achieving meaningful and tangible
14 strides to addressing environmental justice would require
15 the talents of all affected stakeholders, including other
16 State agencies, locals, communities and the private
17 sector. We must make a concerted effort to build
18 multi-stakeholder partnerships in the work that we do.

19 In the coming months CalEPA will continue to
20 conduct our outreach efforts throughout the State on input
21 a draft mission statement as well as input into critical
22 environmental justice issues affecting the State. We will
23 establish the working group on environmental justice, as I
24 mentioned earlier.

25 We will also be establishing the advisory group

1 to the working group, which is composed of local agencies,
2 air boards, communities, non profits and the private
3 sector, as we continue to carry out our charge to protect
4 human health in the environment. You see environmental
5 justice is one of our top priorities. We a working to
6 ensure that environmental justice is part of everything
7 that we do. Though we have made some strides, there is
8 much work to be done.

9 It will be through our collective efforts and
10 talents to ensure that everyone shares in the benefits of
11 environmental protection. Thank you for this opportunity
12 to speak to you this afternoon.

13 Thanks.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you very
15 much.

16 Did you have a question, Mr. Paparian?

17 BOARD MEMBER PAPARIAN: I did. I just wanted
18 to -- are you planning more of a presentation than --
19 should I hold my questions for Romel, until you're done
20 with your presentation or should I ask them now?

21 ASSISTANT DIRECTOR PACKARD: Actually, that's
22 entirely up to you. If it's about the workplan or the
23 adoption of some type of directing language to the Board,
24 to board staff --

25 BOARD MEMBER PAPARIAN: Interrelationship, some

1 way if Romel is going to stay up here, I'll hold my
2 questions for him until you're done.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 ASSISTANT DIRECTOR PACKARD: As I indicated
5 earlier, what we are asking for today is direction in two
6 areas. The first is in the area of the environmental
7 justice mission statement.

8 At the April meeting when we spoke to the Board,
9 you indicated a desire to adopt some language that would
10 guide staff in the development of an environmental justice
11 plan or strategy from the Board.

12 And so what we've done is we have provided four
13 options for you to adopt language, guiding language, like
14 that. The first option is to adopt the CalEPA mission
15 statement that is included in your agenda Item.

16 --o0o--

17 ASSISTANT DIRECTOR PACKARD: And that also should
18 be on your screen right now. This is a mission statement
19 that is included in you agenda item, and that also -- it
20 would be on your screen -- was developed for CalEPA. This
21 is the mission statement that Romel was speaking of that
22 was developed through the CalEPA, across the BDO internal
23 working group and that CalEPA will be going out to the
24 public within the next month or so to get some comment on
25 this.

1 So one option for the Board is to simply adopt
2 the language that's already been drafted through the
3 CalEPA working group.

4 However, because CalEPA will still be going out
5 for review and comment of it, it may change. So this
6 option was not selected as recommended by staff because
7 the language is still being developed and may be revised.

8 The second option that we have listed for you is
9 to use this language and to direct staff to develop a --
10 to use this language as a basis to direct a more board
11 specific type of mission statement.

12 The third option is to defer development of a
13 mission statement until after we have conducted some of
14 the external stakeholder input forums and then direct
15 staff to develop a mission statement at that time.

16 The fourth option, which is the one that staff
17 will be recommending, is to direct staff to use the values
18 or operating principles that have been drafted as part of
19 the Board's 2001 strategic plan to guide the development
20 of the Board's environmental justice plan and strategies.
21 --o0o--

22 ASSISTANT DIRECTOR PACKARD: And these values,
23 you will be looking at them again as part of the entire
24 agenda item, the next agenda item as part of the strategic
25 plan elements. But at this point, we are recommending

1 that we use this as the basis for the Board's direction to
2 staff on how to proceed with our efforts in this area.

3 --o0o--

4 ASSISTANT DIRECTOR PACKARD: There's four
5 bullets. You can see the first two there and then the
6 second two, I believe, on the second page.

7 --o0o--

8 ASSISTANT DIRECTOR PACKARD: And it basically
9 captures what we felt was what we heard both from our
10 internal/external stakeholders and from the Board as to
11 what we wanted to accomplish in this area.

12 So those are the options as far as giving us
13 direction on the mission statement language.

14 ASSISTANT DIRECTOR PACKARD: Did you have any
15 questions about this portion or shall I go on to the
16 workplan?

17 CHAIRPERSON MOULTON-PATTERSON: I don't see any
18 right now.

19 ASSISTANT DIRECTOR PACKARD: Okay. The second
20 area that we're requesting direction from the Board on is
21 the workplan development.

22 In your agenda item, we have provided a draft
23 workplan that consists of several steps. I believe it's
24 six steps and there are tasks listed under each one. And
25 what I'd like to do is just go through those and then

1 answer any questions.

2 --o0o--

3 ASSISTANT DIRECTOR PACKARD: This workplan was
4 developed through our internal working group, internal to
5 the Board, with representation from the Board offices as
6 well as from the divisions and the other offices. And we
7 did consult with Romel and CalEPA extensively on the
8 workplan as well before we put it forward to them.

9 The first step is the step that we're talking
10 about today, the mission statement strategic plan
11 strategy, so I'd like to -- and that will occur today and
12 through August as we bring you back specific strategies as
13 part of the remainder of the strategic plan.

14 So I'd like to go to step 2.

15 --o0o--

16 ASSISTANT DIRECTOR PACKARD: Step 2 is
17 participation in the CalEPA stakeholder forums to solicit
18 input from stakeholders. As Romel mentioned, CalEPA will
19 be identifying representatives of community groups, other
20 stakeholders, interested parties and the general public or
21 external forums addressing all of CalEPA BDOs.

22 And those forums will occur, they hope will begin
23 at the end of July and continue probably through
24 mid-September. And we are proposing that we participate
25 in those forums. The information, the input from those

1 forums will be used by the CalEPA environmental justice
2 working group. They'll be summarized and kind of used to
3 provide a broad policy direction and framework for the
4 BDOs in the area of environmental justice. And that
5 should occur sometime, the development of that material
6 should occur sometime between the end of the forums and
7 the October timeframe.

8 --o0o--

9 ASSISTANT DIRECTOR PACKARD: Step number three is
10 to use that framework developed -- let me back up a
11 moment.

12 One of the concerns or questions, I guess,
13 questions that were raised -- some of the questions that
14 were raised at the briefing last week was that this is
15 kind of -- this entire workplan is kind of a long
16 timeframe, and that there may be other things that we can
17 be doing on a shorter timeframe that might be more the
18 easier things to identify and the easier things to get
19 started on. Some of the other issues might be more
20 complex, require more input, more analysis, more data, et
21 cetera. So there might be things that we can do sooner
22 rather than later.

23 And so one approach for the Board in giving us
24 direction could be to in to step one a request that we
25 begin to look at our programs and identify some of those

1 more immediate things that we could do to address that and
2 get started on some of that and bring that back to the
3 Board sooner. And then leave the more comprehensive
4 in-depth look at things like our permitting process that
5 might require statutory or regulatory changes, and do that
6 analysis and do that on a longer timeframe.

7 So that's an option for the Board in giving us
8 direction today.

9 --o0o--

10 ASSISTANT DIRECTOR PACKARD: So step three is
11 utilizing the framework through CalEPA on the broad policy
12 input to assist us in developing in analyzing our programs
13 and identifying opportunities to address environmental
14 justice and then developing -- doing the analysis and
15 developing strategies in each of those areas. Then
16 compiling those strategies into a draft environmental
17 justice plan.

18 And that would occur as we have drafted it here
19 from October through December. The framework we hope will
20 be done sometime in October, and so then we could use that
21 to guide our efforts to draft our own internal strategy.

22 --o0o--

23 ASSISTANT DIRECTOR PACKARD: Step four would be
24 conducting focus group meetings of the Board's -- all of
25 the stakeholders and interest groups that are interested

1 in specifically what we would be doing here at the Board,
2 so going back to get an additional level of external
3 stakeholder input on what we've drafted. And we've
4 drafted the workplan to indicate that would occur in the
5 December, January timeframe.

6 And the focuses groups January, February
7 timeframe and then summarizing that input on the plan and
8 strategies and taking that into step five, which would be
9 to incorporate all of that external input into the draft
10 plan and develop recommendations to the Board, which would
11 occur in March -- excuse me February or March timeframe.

12 --o0o--

13 ASSISTANT DIRECTOR PACKARD: And then finally,
14 after getting direction from the Board to all
15 recommendations and priorities and putting it together in
16 a plan or a strategy that the Board can adopt, hopefully
17 in early next year.

18 So that's the workplan that we have drafted. At
19 this point, I guess questions, if you have any questions
20 about either the mission statement idea or the workplan or
21 any questions for Romel, I guess.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian,
23 questions and then Mr. Medina.

24 BOARD MEMBER PAPARIAN: Thank you Madam Chair.
25 Rubia, you mentioned the potential for doing things in the

1 time period between now and next April when we would hear
2 back from the various working groups and so forth. I'm
3 wondering, maybe Romel you could help me with this. Are
4 there requirements on us involving environmental justice
5 that we should be incorporating, even before we hear back
6 recommendations from these working groups? Does the law
7 suggest that we should be doing anything differently or --

8 CALEPA ENVIRONMENTAL JUSTICE ASSISTANT SECRETARY

9 PASCUAL: The law is relatively broad. It does provide a
10 framework by which areas that we need to look at. Some of
11 those areas are around assessment, looking at research
12 needs, data collection needs, looking at the gaps and
13 opportunities to address environmental justice.

14 More specifically, one of the things that we, at
15 the agency, would like to move on, relatively in a short
16 timeframe, hopefully in the next several months is to
17 begin to look to assess where the gaps are on
18 environmental justice, in terms of some of our policy
19 areas, issues around where are we in the State in terms of
20 where facilities are located. I don't think we've done an
21 assessment of facilities and its proximity to communities
22 of color and low income.

23 Many of those types of studies have been done
24 across the Board and across the country to give
25 descriptive information to guide policies on a variety of

1 different levels of government, local, State and national
2 and would benefit us to move towards that direction as
3 well.

4 ASSISTANT DIRECTOR PACKARD: If I can in to that.
5 Mr. Paparian, the legislation a directs both CalEPA and
6 the Governor's office of Planning and Research I couldn't
7 remember what the P stood for, of Planning and Research,
8 requires that CalEPA develop a strategy, an agencywide
9 strategy. The current statutory language doesn't have a
10 timeframe for that.

11 There is current legislation that is proposing to
12 put a timeframe on that and require that strategy to be
13 done by, I believe, it's either June or July 15th of next
14 year.

15 The statute right now requires that those two
16 groups, the internal, the CalEPA BDO Chair and Department
17 Director level group that CalEPA supposed to pull together
18 be done by January, and that it doesn't have any
19 timeframes for the development of this strategy.

20 This new legislation would do that if it passes.
21 And it also specifically lists areas that need to be
22 addressed in that strategy, but again -- and Romel
23 mentioned in few of them, things like looking at existing
24 data, looking at gaps in existing policies and programs
25 and statutes and regulations and holding public meetings

1 and things like that. There's a variety of things that
2 are required, but again there's no statutory deadline for
3 that and this new legislation may do that, and so the
4 deadline may end up being next summer, June or July, to
5 have all of that done.

6 BOARD MEMBER PAPARIAN: And let me just ask a
7 more specific question. Romel, I think in your
8 presentation you mentioned that several of the BDOs are
9 doing things to ensure greater public participation. I think
10 that's in the existing statute that there should be
11 efforts to ensure greater public participation in the
12 activities of the agency. Are they doing that pursuant to
13 the law or are they getting out ahead of you a little bit
14 or --

15 CALEPA ENVIRONMENTAL JUSTICE ASSISTANT SECRETARY
16 PASCUAL: I think at this it's -- I'd like to make the
17 point that environmental justice, as we all know, is not a
18 new issue in California. California is not a stranger to
19 those issues.

20 Prior to the adoption of the legislation efforts
21 at the BDO level they've gone, primarily from asserted
22 pressures by the community to expand community
23 participation.

24 And so those efforts were in response to some
25 extent issues around greater participatory process for

1 folks who have not necessarily participated before.

2 So in answer to your question, those efforts have
3 gone under way prior to the legislation. And so they're
4 not necessarily going ahead of us as an agency. As an
5 agency we're going to look at broad policy implications
6 that all The BDOs will definitely need to be apart of
7 developing.

8 But there are certain things that we can do now
9 in terms of the way in which we conduct it, one of the
10 examples, public participation processes, looking at
11 opportunities to engage folks in that process.

12 BOARD MEMBER PAPARIAN: Okay. So that would be
13 an example of something that maybe we can jump ahead of
14 the working groups on and then incorporate, perhaps, what
15 might come out of the working groups.

16 ASSISTANT DIRECTOR PACKARD: Right. And we were
17 seeing a difference, after I heard your remarks at the
18 briefing, and Romel and I talked quite a bit about this.
19 And we were seeing a difference between the level of
20 complexity in deciding just in general it's a good idea to
21 provide more outreach and more community involvement and
22 more assistance so that folks are participating in a real
23 way, and looking at our entire permitting process and
24 seeing where those opportunities are and what kind of
25 statutory authority would may or may not have regulatory

1 basis et cetera, that that's a more complex analysis that
2 has to occur with a lot more input on the impact that
3 that's going to have with the regulated community and the
4 public et cetera, so that that might take more time and
5 that's what we were envisioning when we out together this
6 timeframe.

7 But in talking to Romel, we did come up with
8 several areas that he felt we could really take a look at
9 a little bit sooner and maybe do more sooner. And there
10 are some things that we've already started doing, like
11 working on the GIS function and profile where we're going
12 to be coming back to you I think in the August timeframe
13 to show how we've been able to demonstrate demographic
14 information about our facilities. That's something that's
15 a little bit ahead -- or quite a bit ahead of this
16 analysis.

17 Some of the language that, I think, Mr. Medina
18 has suggested be placed in some of the grants, so that
19 we're taking a look at some environmental justice concerns
20 there. The study that we've been doing -- just some
21 things that we've already been doing. And so Romel had
22 given us some ideas about other things like that, that we
23 could focus on initially and maybe get started on sooner.

24 BOARD MEMBER PAPARIAN: Okay. One thing came to
25 my attention last week and that was the Golden Gate

1 University Law Review has done I don't if all the Board
2 officers have this or not, but did an article on
3 environmental justice in California, where it had like ten
4 or eleven pages specific to the Waste Management Board and
5 what we could -- do board members have this specific to
6 what we could do?

7 CHAIRPERSON MOULTON-PATTERSON: I do.

8 BOARD MEMBER PAPARIAN: I made some copies of the
9 Waste Management Board section in case people haven't seen
10 that.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 BOARD MEMBER PAPARIAN: I found it very
13 interesting, given how specific it is to who we are and
14 what we do and what potentially we could do in
15 environmental justice. And I realize in reading this that
16 some of the suggested directions that we might take on
17 environmental justice might be somewhat controversial to
18 put it mildly.

19 I think it might be interesting for the Board in
20 the next couple of months to hear something specific to
21 the ideas that are in here. I don't know if we can either
22 bring in the author or maybe have the Attorney General's
23 office and our legal staff give us some thoughts and
24 analysis on this, but again there's a sort of road map
25 suggested in here about how this Board might incorporate

1 environmental justice into its work. And I think it's
2 worthy of some analysis and discussion at our level.

3 ASSISTANT DIRECTOR PACKARD: I think the legal
4 office would be happy to take a look at the article and
5 provide some feedback on it.

6 We talked about it a little bit. Kathryn got a
7 copy of it and she made some comments about it that she
8 should be interested in, at least, providing you with some
9 feedback on some of the ideas and the analysis in there,
10 et cetera. Do you want to in to that?

11 CHIEF COUNSEL TOBIAS: No.

12 (Laughter.)

13 CHAIRPERSON MOULTON-PATTERSON: You'll get back
14 to us.

15 ASSISTANT DIRECTOR PACKARD: Can you see how
16 happy she is.

17 BOARD MEMBER PAPARIAN: I think the author, as I
18 understand it, Russell, maybe you can help me, does she
19 work at the Attorney General's office.

20 DEPUTY ATTORNEY GENERAL HILDRETH: Yes.

21 BOARD MEMBER PAPARIAN: Eleanor Peters. You
22 know, maybe as an informational item, it might be
23 interesting to -- I don't know if she'd be willing to come
24 in in subject herself to us or not, but --

25 DEPUTY ATTORNEY GENERAL HILDRETH: If you'd like

1 me to ask her, I will ask her.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 BOARD MEMBER PAPARIAN: That's all I've got.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you. We do
5 have a public speaker before we go to Mr. Medina. And
6 just let me know any other board members who would like to
7 speak.

8 Sean Edgar.

9 MR. EDGAR: It's working.

10 Madam Chair and Board Members, thank you Sean
11 Edgar on behalf of California Refuse Removal Council, 120
12 private independent companies providing recycling and
13 solid waste services throughout the State of California.

14 I wanted to take a few moments to offer our
15 viewpoint on this very important issue. Realizing that
16 solid waste and that our companies operate in both rural
17 and urban environments, we're not only service providers,
18 we're also employers in those rural and urban
19 environments. And we are completely in agreement that no
20 segment of society should bear an inordinate burden of
21 facilities.

22 However, that realization is tempered by our need
23 to balance the siting of essential public services, not
24 only waste handling and processing facilities recycling
25 facilities, landfills and the like, but we also realize

1 that any publicly owned treatment works, water waste
2 treatment plans and whatnot certainly suffer from these
3 challenges as well.

4 So we want to acknowledge that it is a very
5 important issue. However as we move forward on the time
6 line that A Packard and Mr. Pascual have talked about, we
7 also want to make sure that we a forward with a certain
8 amount of precision, and we want to make sure that we move
9 forward with a certain amount of caution. IN particular,
10 the siting of facilities has always been a daunting task
11 here in California. We certainly navigate a very lengthy
12 path with regard to facility siting issues.

13 And we look at certain issues that we've
14 developed both federally and here within the State that
15 cause some concern for us to make our statement that we
16 believe that they're needs to be some precision and
17 caution.

18 Specifically in the case of New Jersey, the
19 Southampton citizens. There was a recent case, that an
20 innocent industry happened to be a cement plant had their
21 air permits revoked, vacated due -- not due to the fact
22 that they weren't in compliance with their air permits,
23 but due to the fact that there were some allegations that
24 apparently they had not relied upon significant public
25 process through the permitting process.

1 So we would have some concerns amongst 10a
2 material recovery facilities and 300 recycling centers
3 that I represent to be in a situation where we find that
4 the permits that have been lengthy in order to maintain
5 are all of a sudden are vacated and revoked as a result of
6 particular actions that to which industry was unaware.

7 In that case also, there was determined that
8 there was a private right of action. The third parties
9 could actually -- in that case the State Department of
10 Environmental Quality was sued and that resulted in
11 vacating of their permit. In that particular case, also,
12 the United States Supreme Court on April 25th of this year
13 reversed that decision.

14 However, our words of caution are realizing that
15 we have a very much of an evolving issue, and we want to
16 make sure that as we walk delicately in that we have some
17 key elements that have been discussed today that are very
18 important elements of executing that strategy that's
19 before you, one of which is data collection is the key.
20 As Mr. Pascual has indicated, there is, you know, a lot of
21 data and how do we determine or quantify whether, in fact,
22 there is a problem or if a, what are the steps to address
23 that.

24 With regard to how we're going to define
25 environmental justice communities, Air Resources Board, as

1 part of our clean air plan, discussed that they had an
2 idea of what environmental justice communities are, but
3 we're going to, as we go through this process, evolving
4 process, we're going to try and determine as we get down
5 the road. And we want to make sure that if we're using
6 things like census data, the census data that, you know,
7 we hear commentary our there in media and government that
8 how reliable is census date that we've collected.

9 So if we're using data as a basis for some
10 conclusions, we want to make sure that we have some valid
11 data and that data a meaningful. We want to look at the
12 cross-media issues as we move forward, especially with the
13 Air Resources Board. More and more members of our solid
14 waste industry are affected by cross-media issues. By the
15 end of this year ARB tells we will have a rule to retrofit
16 all of our diesel fired garbage trucks.

17 That rule development is also going to apparently
18 incorporate some environmental justice concerns. And we
19 want to make sure that the cross-media efforts between all
20 the CalEPA Boards, Departments and offices are
21 coordinated, in that they will also impact our industry.

22 So on behalf of CRT we want to communicate that
23 we're fully prepared to participate and we do want to
24 participate in all the advisory groups and panel
25 opportunities that we have. If there are additional steps

1 a to what's already a long CEQA process, we want to make
2 sure that they're based upon some sound reason and that
3 there is some rational behind those.

4 We want to make sure and study more of, Mr.
5 Paparian the article that you had, we want to make sure we
6 have an opportunity to look at some of the greater, bigger
7 picture type items behind the environmental justice
8 strategy and make sure that the road map that may have
9 been pointed toward, does not become a huge deterrent for
10 solid waste handling and recycling in the State.

11 Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
13 Edgar. That was our one public speaker.

14 Mr. Medina.

15 BOARD MEMBER MEDINA: Thank you, Madam Chair.
16 And first I'd like to thank Assistant Secretary Romel
17 Pascual for appearing before us and also for providing
18 leadership and advice in regard to this matter.

19 And I would like to commend Rubia Packard and
20 staff for the work that they have done on this issue. And
21 I'd just like to say that Mr. Pascual in his remarks
22 pointed out something that is very important, and this is
23 the first time that any State has adopted specific
24 legislation on environmental justice and that we're
25 provided with a tremendous opportunity to provide

1 leadership in this area.

2 And so this is a prime opportunity for our board
3 here, the Waste Board, to be at the forefront of this
4 issue and working closely with CalEPA.

5 And I just have to say that I recognize that our
6 staff has been working closely with CalEPA to ensure that
7 we work cooperatively to establish the BDO's environmental
8 justice strategy. And this is especially crucial because
9 this topic appears to be picking up steam, not only within
10 the Board but the Legislature and the press, and the
11 affected communities as it's always been an important
12 topic.

13 But this also arose during the budget
14 deliberation before the Legislature. And, in fact, in our
15 meeting with some of the members of the State legislature,
16 they raised this issue with us. And so, again, this is an
17 opportunity for our board to be at the forefront of this
18 effort.

19 And we should closely heed the request of staff
20 to give them direction. And, in fact, I requested that
21 this item be pulled from the agenda last month, so that
22 staff could take more time to prepare a fuller agenda item
23 for consideration and discussion by the Board.

24 In that board item, staff proposed Resolution
25 2001-218 that directed staff to use the values, operating

1 principles drafted as part of the Board's 2001 strategic
2 plan to guide the development of the Board's environmental
3 justice plan and strategies.

4 And to ensure that we will include environmental
5 justice concerns in all future programs and policies, I
6 would like staff to include environmental justice in the
7 goals portion of the strategic plan, because environmental
8 justice should very much be a goal that we strive for.

9 And we're going to be considering that in Item 13.

10 In regard to the resolution itself --

11 CHAIRPERSON MOULTON-PATTERSON: Item 30.

12 BOARD MEMBER MEDINA: Oh, Item 30.

13 In regard to the resolution itself, I'd like to
14 move the resolution with some changes that I have made and
15 I will read the changes that are made on the resolution
16 for you.

17 Specifically, in the seventh whereas clause,
18 where it says, "Whereas the issued of environmental
19 justice cuts across nearly every program..." Change "cuts
20 across" to "environmental justice impacts nearly every
21 program administered by the Board, including permitting
22 and enforcement activities, providing local assistance,
23 issuing grants, entering into contracts, and zone and
24 administration and in."

25 And in the 8th whereas clause, I wrote in there

1 "Whereas the Board is developing, in close consultation
2 with CalEPA and its environmental justice coordinator, a
3 workplan to identify areas of potential environmental
4 justice impacts and will develop an environmental justice
5 plan and strategies"

6 And in whereas clause number 9, "Whereas the
7 Board has directed staff to include environmental justice
8 issues in both the values and the goals of the strategic
9 plan pursuant to the separate item taken at the Board
10 meeting,

11 This Board be it resolved that the Board hereby
12 direct staff to use the values, operating principles and
13 goals drafted as part of the Board's 2001 strategic plan
14 to guide the development of the Board's environmental
15 justice plan and strategies.

16 And finally in the further resolved clause, "That
17 the Board hereby directs all divisions and offices to
18 return to the Board with a single agenda item in December
19 2001, which provides detailed actions that these divisions
20 could take relative to considering environmental justice
21 during the activities of these divisions, including
22 activities that are administrative in do not require board
23 action."

24 There are a lot of things that we can do in
25 regard to environmental justice that we can do now that we

1 do not have to wait months for. So Madam Chair, I would
2 like to move resolution 2001-218 with those changes.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 ASSISTANT DIRECTOR PACKARD: Madam Chair?

5 BOARD MEMBER PAPARIAN: I'll second that.

6 CHAIRPERSON MOULTON-PATTERSON: Okay, we have a
7 motion and a second.

8 Ms. Packard.

9 ASSISTANT DIRECTOR PACKARD: The draft that I had
10 says September 2001, and when you just read through it you
11 said December.

12 BOARD MEMBER MEDINA: Right, September 2001.

13 ASSISTANT DIRECTOR PACKARD: And so you're --

14 BOARD MEMBER MEDINA: Yes, September 2001.

15 ASSISTANT DIRECTOR PACKARD: Also, in there
16 whereas clause before the very last whereas clause you
17 indicated that the Board has directed staff to include
18 environmental justice in the values and goals of the
19 strategic plan, and that's the next item, so the Board
20 hasn't done that yet. And I don't know if that makes a
21 difference if it needs to be reworded or -- I don't know
22 if that matters.

23 CHIEF COUNSEL TOBIAS: Madam Chair, what you
24 could do is adopt this and move on to the strategic plan.
25 And if it's not adopted in the strategic plan, reopen this

1 and fix it.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. I think
3 that is the best way.

4 Okay any comments, questions?

5 Okay we have a motion by Mr. Medina seconded by
6 Aye. Paparian to adopt resolution 2001-218 with the
7 changes.

8 Please call the roll.

9 SECRETARY VILLA: Eaton?

10 BOARD MEMBER EATON: Aye.

11 SECRETARY VILLA: Jones?

12 BOARD MEMBER JONES: Aye.

13 SECRETARY VILLA: Medina?

14 BOARD MEMBER MEDINA: Aye.

15 SECRETARY VILLA: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 SECRETARY VILLA: Roberti?

18 BOARD MEMBER ROBERTI: Aye.

19 SECRETARY VILLA: Moulton-Patterson?

20 CHAIRPERSON MOULTON-PATTERSON: Aye.

21 Okay. I'd like to thank Ms. Packard also.

22 You've done a really great job on this. We appreciate it.

23 And Mr. Pascual thank you very much for your guidance and
24 help and we look forward to working closely with you.

25 Item 30, Ms. Packard.

1 ASSISTANT DIRECTOR PACKARD: I have to switch
2 papers here.

3 Rubia Packard, again, with the policy office.
4 I'm presenting agenda Item 30, which is discussion of a
5 request for direction on the vision, mission, values and
6 goal elements of the Board's 2001 strategic plan.

7 This item presents draft mission, vision and
8 value statements and key strategic goals for board
9 discussion and direction today. We wanted to get
10 additional input from the Board before continuing with
11 further drafting of the rest of the elements of the 2001
12 plan.

13 Those elements will be objectives, strategies and
14 performance measures. We wanted to ensure that the vision
15 and the mission and all the values and the goals were what
16 the Board intended them to be before we completed the rest
17 of the plan.

18 Based upon the feedback and direction we received
19 today, a final draft of the complete plan will be brought
20 before the Board for approval at the September a October
21 board meeting.

22 Before we get into the details of the plan, I'd
23 just like to talk about the process for a minute. What we
24 had done was put together a steering committee that
25 included membership board members in its membership and

1 used that team to develop the process for taking us
2 through the entire strategic planning development.

3 We gathered input from internal/external
4 stakeholders at two meetings. We obtained direction from
5 board members on key issues and priorities after those
6 stakeholders meetings, and then the plan elements were
7 drafted by a working group that was composed of executive
8 staff members. Those are the elements that you a before
9 you today.

10 Our next steps after we receive input from the
11 Board today is to take the draft vision or to take the
12 vision, mission, values and goals and develop the draft
13 objective strategies and performance measures by utilizing
14 cross-divisional teams with participation from board
15 members offices.

16 These teams will be led by deputies and assistant
17 directors, and we will develop the remaining elements of
18 the plan. We will bring those back to you in August for
19 review and comment and then the plan will go to CalEPA for
20 their input as well. And we will bring it back to you for
21 final adoption in either September or October.

22 CalEPA will have an opportunity to review and
23 comment on our plan and they're primarily looking at plans
24 for those areas that are cross media in nature, where we
25 are either supporting another board in prioritizing those

1 efforts in supporting another board or department or we
2 need the support of other boards and departments in our
3 activities.

4 So they will have two opportunities to review and
5 comment on that, through the Strategic Vision Team, which
6 is a cross-bDA team, where we will present our elements of
7 our plan, and we'll get comment back from the other BDOs
8 on those areas that are cross media.

9 And then the Office of the Secretary will review
10 and comment on our plan in August after the Board sees the
11 remaining elements.

12 The options for the Board today are to direct
13 staff to use the vision, mission, values and goals as
14 drafted to develop the remaining elements of the Board's
15 2001 strategic plan for board discussion or to direct
16 staff to make revisions to the vision, mission, values and
17 goals and develop the remaining elements for the Board's
18 2001 strategic plan for board discussion or take no action
19 at this time.

20 I am aware that at least a couple of the Board
21 Members had some proposed changes to some of the language
22 here. So what we did, and I don't know if this will be
23 helpful to you, what we did was we put all of the
24 elements, the language up here on the computer, and we
25 figured if you have changes or revisions that the Board

1 agrees to that we could just go ahead and make them a so
2 that we have a good record of the actual words.

3 So we thought that might be easier. We would
4 like to go through each set element by element so that we
5 make sure we capture everything in each element before we
6 move on, just to make sure that we capture everything.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. That
8 sounds great.

9 (Thereupon an overhead presentation was
10 presented as follows.)

11 ASSISTANT DIRECTOR PACKARD: So this is the
12 first -- before I go on, are there any questions about
13 process or anything?

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

15 BOARD MEMBER JONES: Just a couple. We've got
16 some speakers -- I mean, if we're going to address this
17 piece a piece, we've got speakers that want to speak to
18 whatever issues. I won't to speak to some issues. If Mr.
19 Liss is here to talk about zero waste, does that mean that
20 talks about it at this point or --

21 CHAIRPERSON MOULTON-PATTERSON: Before we make
22 proposed changes?

23 BOARD MEMBER JONES: Yes. I mean, I'm trying to
24 figure out, because we've got a lot of sections here. And
25 if we're dealing with them a piece at a time, I have a

1 proposal in front of me that --

2 CHAIRPERSON MOULTON-PATTERSON: Why don't we go
3 ahead and hear A Liss, since he has indicated that he
4 wanted to speak to this portion. Would that be okay with
5 you, Ms. Packard?

6 ASSISTANT DIRECTOR PACKARD: Absolutely.

7 CHAIRPERSON MOULTON-PATTERSON: Is that okay with
8 you Mr. Liss.

9 Come on forward.

10 Welcome.

11 MR. LISS: Madam Chair and members of the Board
12 thank you for the opportunity to present a. I'm speaking
13 on behalf of the group of signatories to a letter that I
14 sent to you last night, that are from around the world a
15 leaders in the advocacy a zero waste as a policy for this
16 nation and the world.

17 I'm also here on behalf of the Global Recycling
18 Council. You received an Email from Sarasawati
19 Charamtamoulie in regards to their support for zero waste.
20 And in both regards I'm here to speak in support of the
21 vision statement that is in on the Board right now in
22 support of the zero waste California.

23 Zero waste is a new idea. It's a policy. It's a
24 path. It's a direction. It's a target. It's a process.
25 It's away of thinking. It's moving from waste management

1 to resource management, recognizing that for every ton
2 that's buried in municipal landfills, 71 tons are buried
3 elsewhere through mining, manufacturing, agriculture, oil
4 coal, petroleum and other manufacturing industrial
5 processes. Resource management needs to drive the future
6 not landfills.

7 Zero waste is a new vision for a new century. It
8 is a breakthrough strategy much like zero waste has been
9 adopted in many other areas of activity. Zero emissions
10 is what's being struggled with in the air industry, in
11 water pollution control, zero defects in total quality
12 management, zero inventory, just-in-time inventory, has
13 been adopted by many manufacturers, zero cut for the
14 national forests is a primarily directive of the
15 environmental movement.

16 Are other areas are sustainable agriculture,
17 sustainable forestry, sustainable cities. The connections
18 between sustainability and zero waste are clear. Zero
19 waste was meant to translate sustainability into terms
20 that solid waste and recycling professionals would
21 understand and relate to.

22 Zero waste means businesses sharing
23 responsibility for products and packaging that they
24 produce, focusing delivering services not products,
25 developing return customers through leases and takeback

1 programs, providing more services with less energy and
2 fewer materials, designing waste out of the system.

3 It builds on philosophies, such as natural
4 capitalism, the natural step designed for the environment,
5 Factor 4, Factor 10 efficiencies, clean production. These
6 are all concepts that are on the cutting edge of
7 industrial activities. And zero waste is meant to capture
8 that for our arena of waste and recycling issues.

9 Zero waste means using incentives to harness the
10 forces of the marketplace, taxing bads not goods,
11 increasing cost for landfilling so low-cost landfilling
12 does not undermine reduced recycling and composting and
13 waste diversion activity, ending subsidies for waste
14 efforts and eliminating waste not managing it, finding a
15 home for everything, and preferably a local one, in
16 developing innovative systems like resource recovery parks
17 that co-locate reuse, recycling, composting,
18 manufacturing, processing and retail establishments.

19 Zero waste means establishing new rules for
20 business. One of the reasons we have such a large
21 quantity of waste is that rules are broken. Businesses
22 aren't being held accountable and need to be provided
23 rules by which they will ensure that they consider waste
24 issues in the design of products and in the rollout of new
25 inventions.

1 Land use permit conditions are being used in LA
2 to require developers to use C&D recycling to use recycled
3 content products, to use recycling facilities in their new
4 development.

5 Many communities are requiring recycling plans
6 with businesses or requiring businesses to achieve
7 recycling goals. Some communities are starting to ban
8 products like mercury thermometers and other mercury
9 products from being sold in their community because of the
10 toxics problems or banning materials from landfills. More
11 than a third of the landfills in north Carolina band
12 corrugated material, over 37 states ban yard waste from
13 landfill.

14 Setting rules for taking back products and
15 packaging are things that are being developed right now
16 particularly looking at E-waste, electronic waste, as one
17 of the prime areas to focus on by local governments.

18 Is zero waste attainable? Well, as have been
19 doing fantastic job and many leading businesses in
20 diverting over 90 percent of the waste that they produce.
21 Hewlett-Packard nearby in Roseville, Xerox has done it
22 because they leased copiers for many years. By doing so
23 they had the product coming back to them. They had to
24 find something to do with it and they found ways to reuse
25 it, disassemble it or recycle the parts. So they do have

1 a Xerox waste-free policy, which was originally called
2 Xerox waste policy that's spelled with an X.

3 Pillsbury reduces ten percent better every year
4 is their company goal, and now have achieved over 9a waste
5 diversion. Fetzer Vineyards, Mad River Brewing Company,
6 Del Mar Fairgrounds, Collins and Aikman hasn't disposed of
7 ton in landfill- for several years, Zancaro Landfill in
8 San Jose recycles over 95 percent of their material. And
9 most reuse in recycling businesses in California do today.

10 Is zero waste attainable? A we're darn close is
11 a slogan of our network. The goal is moving towards that
12 direction. It's not necessarily getting to the end point
13 of zero waste. Many governments are on their way to zero
14 waste. Seattle Washington has adopted zero waste as a
15 guiding principle. Del Norte County has adopted the first
16 zero waste plan in the nation. Santa Cruz County and San
17 Luis Obispo County have adopted zero waste resolutions. A
18 third of New Zealand cites have adopted zero waste in
19 Canberra Australia was the first community in the world to
20 adopt a zero waste goal for 2010. And Halifax Nova Scotia
21 has adopted a zero waste goal as well.

22 Will zero waste cost more? No, it's not a
23 centralized public works project. In fact, much of the
24 waste that is yet to be reduced and reused and recycled is
25 in the business sector. And businesses will save money

1 through product and process improvements, redesigns and
2 more recycling if they adopt these goals. A just working
3 with businesses to figure out how to get their attention
4 and work together with the Waste Board, with local
5 governments, with environmental groups to solve these
6 problems together.

7 Well, what if we don't design for zero waste?

8 Well, then we have to plan for more landfills and more
9 incinerators. Landfills are leaking around the State we
10 keep hearing about and around the nation. Remedial
11 cleanups, Superfund sites many of them are old municipal
12 landfills. We can continue to dump on our neighbors.
13 Large amounts of material we hear are going to Oregon and
14 Nevada, 750,000 tons last year we heard in this morning's
15 report.

16 If we design for zero waste, we can reduce the
17 burden of finding additional new sites. We also would
18 accrue the benefits of mining and manufacturing impacts
19 being continued if -- discontinued, if we achieve zero
20 waste.

21 We need six to eight more plans for the US
22 lifestyle to be replicated. If we were to export our
23 approach worldwide, we just couldn't do it the way our
24 efficiencies are today. Zero waste calls for us to
25 address those concerns. A an appropriate vision for the

1 Board to adopt, whether you adopt it as a vision or a
2 goal, we are applauding staff for recommending it to be
3 the vision statement for the State, and urge you to adopt
4 zero waste in the strategic plan as one of your main
5 guiding principles.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
8 Liss. Mr. Aprea, did you a to a now or.

9 MR. APRE3A: Whatever is the Board's pleasure.

10 CHAIRPERSON MOULTON-PATTERSON: Why don't you
11 come on up. It's just the two of you.

12 MR. APREA: Madam Chair, may I speak to any of
13 the other issues that are further down or do you want me
14 to limit my comments to the vision statement?

15 CHAIRPERSON MOULTON-PATTERSON: No, you can speak
16 at the end, if you want. If you want to wait till we go
17 all the way through it I just -- it's your choice.

18 MR. APREA: That will be fine. Why don't I go
19 ahead and do --

20 CHAIRPERSON MOULTON-PATTERSON: We won't forget
21 you.

22 BOARD MEMBER JONES: Madam Chair?

23 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones
24 and then Mr. Paparian.

25 BOARD MEMBER JONES: Thanks Madam Chair. I

1 wanted to Gary's input in this, because Gary was part of
2 our external stakeholder group that met at, I don't know,
3 some State building over off of Watt Avenue. And I
4 appreciated then his discussion on this.

5 I also had a discussion on zero waste. And one
6 of the issues, because I've asked -- I've told board
7 members that at the briefing that I was going to ask that
8 zero waste be changed to sustainable, a sustainable
9 California.

10 And the reason that I gave at that briefing was
11 that zero waste means a lot of different things to a lot
12 of different people. And it actually is illustrated by
13 the 12 boxes that you just had to give to explain what
14 zero waste is and what it can afford.

15 And I only say that because I'm not going to
16 abandon a It still needs to be part of the strategic plan,
17 but when you're talking about a vision for California in
18 putting a strategic plan together, one of my problems when
19 I was going through this process was I didn't have a
20 problem with zero waste, but I would have had to put an
21 exclamation -- we would have had to have put some kind of
22 an explanation into what that expectation of zero waste is
23 in a vision statement.

24 So it seemed, rather than to create confusion or
25 fear or whatever, that if we said it was a sustainable

1 California and went on later to talk about zero waste and
2 how we achieve that, a I see zero waste as absolutely
3 where we have to go, but it means changes.

4 And even in our own somewhat -- there's a
5 proposal for some different language. Even in the
6 proposal when they talk about promote a zero waste
7 California where citizens, industry and government strive
8 to recycle all municipal solid waste. That's part of zero
9 waste, but it clearly has to be product stewardship,
10 source reduction those types of things.

11 And when we don't even include it in our
12 description of what we think zero waste is and it takes 12
13 boxes to describe it, I'm going to ask the Board to change
14 that to a sustainable A so that we don't have to explain
15 our vision and then include zero waste in the other parts
16 of the strategic plan, because I think it's a valid goal.
17 So I just wanted to offer that as an amendment to that
18 vision.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. And then
20 Mr. Paparian.

21 BOARD MEMBER PAPARIAN: Yeah, I feel like I
22 should pass out what I have as recommendations all the way
23 through, because there's an inter-relationship. I'm
24 comfortable with what Mr. Jones is saying about changing
25 the vision statement, provided that when we get to the

1 goals there is an elaboration of a goal of trying to
2 achieve zero waste.

3 So let me just go ahead and pass a out. And then
4 just by brief way of explanation, I think the staff has a
5 copy of it too. By brief way of explanation, there's
6 basically four things that I'm trying to accomplish. A is
7 the clarification of zero waste and what it's about. The
8 second is further highlighting of environmental justice
9 amongst the goals. A third is including enforcement and
10 highlighting enforcement. And I think that might actually
11 turn out to be one of the more intriguing discussions that
12 we have. And then the final one is to clarify who some of
13 the public citizenry stakeholders and others are that we
14 are trying to reach out to.

15 So I'll go through some of this as we go through
16 the items on the screen, but again the major things that
17 I'm trying to get at are including enforcement, clarifying
18 on zero waste and further highlighting environmental
19 justice.

20 If you look at the structure of the strategic
21 plan, when we get down to goals, goals are intended to be
22 realistic priorities of the organization to help us focus
23 our acts. It's clearly toward defined purposes and policy
24 and intention, and that's something I would, because of
25 that definition, I feel needs some beefing up in these

1 areas I've just discussed. So when we go into that,
2 perhaps we can go over that.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. So at this
4 point, you know, I don't think we're going to be voting on
5 everything single word, but if we have some consensus
6 should we go ahead and put it in is that the way you want
7 to do it.

8 ASSISTANT DIRECTOR PACKARD: Right. And the
9 agenda item wasn't set up for the Board to adopt these
10 elements, but just give us direction, you know, the
11 vision -- you would like the vision to say a sustainable
12 California or whatever the words are. We can capture
13 those as we go through. What we're hoping is that once we
14 put the whole plan together, then the Board will adopt the
15 whole a all at one time later on in the process.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. I have no
17 problem with sustainable. I think it's a good suggestion.
18 And a Mr. Jones said, he wanted to put zero waste
19 California back in, at some point, is that correct, Mr.
20 Jones, as I understand it?

21 BOARD MEMBER JONES: Yes, ma'am.

22 CHAIRPERSON MOULTON-PATTERSON: And I see Mr.
23 Aprea. So maybe this would be the time for you to speak.

24 MR. APREA: Madam Chair if the Board would
25 indulge me to the extent that you're going to try to start

1 taking parts of the strategic plan item by item, if I
2 might have the liberty of coming back after this item as
3 you go through each one, where I'd like to comment.

4 CHAIRPERSON MOULTON-PATTERSON: Sure. Do you
5 have comment so far?

6 MR. APREA: And I'm not going to comment on each
7 item, so a worry about that. But, yeah, I would like to
8 comment on the issue of zero waste.

9 And I want to first -- for the record, Mark
10 Aprea. I'm representing Republic Services. And my
11 comments do address this first item in terms of the
12 vision. And then I'll concur with Mr. Jones' comments
13 regarding what it means.

14 I would also ask the question of the Board that
15 if there is a vision of zero waste, then my question to
16 the Board would be, and it would relate to this item, then
17 where are you going to get your funding?

18 (Laughter.)

19 MR. APREA: It relates to the comment we had
20 earlier today. And I'm half serious and half kidding, but
21 the fact of the matter is is that we raised that issue
22 earlier today. That issue was really not addressed in any
23 way earlier today, but we are striving in a vision for
24 zero waste, yet nowhere in this document do we see
25 anything where the Board will act or move forward in some

1 kind of a fiscally responsive fashion and address the
2 consequences of zero waste.

3 Without even addressing the issue of whether zero
4 waste is appropriate or a, nothing in this statement
5 further down addresses that issue. And what I suspect
6 will happen then is that we will continue to have to raise
7 fees on a go forward basis on less and less waste, just as
8 we saw the Department of Toxic Substances Control had to
9 do in terms of hazardous waste, and we know how
10 unsuccessful that was.

11 And so I would urge that the Board in addressing
12 this issue address the matter in terms of its fiscal
13 responsibility and how it wants to move forward on that
14 issue.

15 Further more, I would ask that the Board look at
16 this issue and look at other issues, so the Board look at
17 what its statutory authority is.

18 First of all, it's not to suggest that there is
19 no statutory authority for a strategic plan, but I think
20 that you may be going -- on this item and others, you may
21 going beyond you statutory authority provided by the
22 Legislature, and that, in essence, you're going into --
23 you're engaging in a backdoor policy, if you would,
24 usurping or going beyond the bounds of the statute.

25 Your obligations, I think, are not only to make

1 recommendations to the Legislature and to -- but it is to
2 take your statutory authority and implement it. I believe
3 that this item and others go beyond that.

4 The charge of the Integrated Waste Management Act
5 was to divert waste by -- one of the charges was to divert
6 waste by 50 percent and make sure there is appropriate
7 disposal capacity in 15 years. I think that this measure
8 goes well beyond that. And I think that before you engage
9 in sweeping policy changes that you look at that and say
10 does this or does this not full within your statutory
11 authority.

12 If there is a question mark, I would recommend
13 that you not move forward with that or at least seek some
14 statutory changes to ensure that you can.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 MR. APREA: With that, I'll stop on the zero
17 waste matter and come back on some other items.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
19 Aprea.

20 ASSISTANT DIRECTOR PACKARD: A ask a question.

21 CHAIRPERSON MOULTON-PATTERSON: Sure.

22 ASSISTANT DIRECTOR PACKARD: Would you prefer to
23 work from the draft that Mr. Paparian has provided that
24 has some proposed changes in it already. You can see they
25 have done it with the tracking functions, so that you can

1 actually see where they struck out zero waste and put
2 sustainable.

3 Would it be easier for you to work from that
4 because I also have that draft here on the computer? So
5 you can see those changes and decide whether you want the
6 language to remain as it is or incorporate Mr. Paparian's
7 language or something else? What would be the easiest for
8 the Board?

9 CHAIRPERSON MOULTON-PATTERSON: Well, you know,
10 frankly I wish I'd have had Mr. Paparian's draft. I've
11 looked at yours for two weeks, and, you know, this is a
12 lot to see.

13 ASSISTANT DIRECTOR PACKARD: Or you can just
14 adopt staff's a that would be good too.

15 (Laughter.)

16 BOARD MEMBER JONES: I'm ready to move.

17 BOARD MEMBER EATON: Is there some in the back
18 for the public just in case they want to refer to Mr.
19 Paparian's.

20 BOARD MEMBER PAPARIAN: Do you have some for the
21 public, Mr. Paparian?

22 ASSISTANT DIRECTOR PACKARD: I did not make
23 copies.

24 BOARD MEMBER EATON: I mean just -- public
25 participation is something we stressed in the a item. It

1 might be -- just in the event that someone does want to
2 follow along.

3 ASSISTANT DIRECTOR PACKARD: Well, that's why I
4 was saying I can put it up here on the screen, so that
5 they can follow along.

6 CHAIRPERSON MOULTON-PATTERSON: Do you have a
7 copy of Mr. Paparian's?

8 ASSISTANT DIRECTOR PACKARD: I have a copy on the
9 computer of Mr. Paparian's version. So whoever is
10 listening can follow along on the --

11 BOARD MEMBER EATON: Unless they're listening in
12 their offices.

13 ASSISTANT DIRECTOR PACKARD: Right.

14 CHAIRPERSON MOULTON-PATTERSON: I think we will
15 work from this, and then where we, you know, decide to
16 incorporate Mr. Paparian's suggestions, we will.

17 ASSISTANT DIRECTOR PACKARD: Okay.

18 CHAIRPERSON MOULTON-PATTERSON: Is okay with
19 everybody. I think it gets too confusing the other way.

20 ASSISTANT DIRECTOR PACKARD: Okay. So at this
21 point, what I a heard is that we will change zero waste to
22 sustainable in this statement?

23 CHAIRPERSON MOULTON-PATTERSON: Any objections?

24 I don't hear any.

25 Mr. Kupps.

1 MR. KUPPS: Could interested members of the
2 public get a copy of Mr. Paparian's proposal?

3 CHAIRPERSON MOULTON-PATTERSON: Certainly.

4 BOARD MEMBER PAPARIAN: I have three extra
5 copies. A number of people in the Industry have seen
6 this.

7 CHAIRPERSON MOULTON-PATTERSON: Why don't you
8 provide Mr. Kupps with a copy, and Mr -- people that have
9 spoken.

10 GENERAL COUNSEL TOBIAS: Madam Chair, do you want
11 to just a break.

12 CHAIRPERSON MOULTON-PATTERSON: Yeah, let's take
13 a little break, because I would like to provide enough
14 copies for those interested since it's a public meeting.

15 (Thereupon a brief recess was taken.)

16 CHAIRPERSON MOULTON-PATTERSON: Okay, I'd like to
17 get back to our meeting.

18 Okay, back to the discussion of our strategic
19 plan. And maybe you can help me with this, Ms. Packard.
20 Is this our time to just kind of give you a feel of our
21 direction or to change every word?

22 ASSISTANT DIRECTOR PACKARD: Whatever you wish.

23 CHAIRPERSON MOULTON-PATTERSON: Whatever we want
24 to do, okay.

25 ASSISTANT DIRECTOR PACKARD: And it seemed like

1 it was real important to make sure at least that the
2 vision and the mission were the words that you were
3 comfortable with as a board.

4 So if we could at least go --

5 CHAIRPERSON MOULTON-PATTERSON: So the vision and
6 the mission.

7 ASSISTANT DIRECTOR PACKARD: We've already talked
8 about the vision. If we took a look at the mission and
9 the Board felt that the words were there and it captured
10 fairly well the essence of what you want to communicate,
11 then we could do the values in a more general way.

12 And then I think we do need some real specific
13 guidance, not so much the words, but in terms of
14 additional concepts for the goals would be good.

15 CHAIRPERSON MOULTON-PATTERSON: Okay.

16 Mr. Paparian.

17 BOARD MEMBER EATON: Madam Chair.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton.

19 BOARD MEMBER EATON: I just wanted to -- you
20 asked about ex partes, I just have one. And Mark Aprea
21 about zero waste.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

23 BOARD MEMBER JONES: George Larson.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

25 BOARD MEMBER MEDINA: Aye. To Aye. Aye. Mr.

1 Paparian.

2 BOARD MEMBER PAPARIAN: None.

3 CHAIRPERSON MOULTON-PATTERSON: I have none.

4 Okay, do you want to go back to your suggestions
5 Mr. Paparian?

6 BOARD MEMBER PAPARIAN: If we're talking about
7 the mission, no. I think the staff has done a great job
8 on that.

9 I think when we get to the values and goals
10 that's where the discussion may take us.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. So can I
12 assume that the vision and the mission with the one change
13 are fine with the members?

14 Now is the time, I guess, to speak if you're not
15 okay with that.

16 MR. APREA: Madam Chair?

17 CHAIRPERSON MOULTON-PATTERSON: Mr. Aprea.

18 MR. APREA: May I make a statement on this item?

19 CHAIRPERSON MOULTON-PATTERSON: Certainly.

20 MR. APREA: Again, I'd like to point the Board to
21 the phrase ensure all materials are managed to their
22 highest and best use. Number one, the Board does not this
23 Board statutory authority to my knowledge to engage in
24 that kind of -- to sort of pursue that kind of a mission.

25 Number one, in fact, many of the statutory

1 requirements on the Board are contrary to that statement.

2 As an example, operating a landfill, I think, could be

3 clearly stated does not ensure that all materials are

4 being managed to their highest and best use.

5 Again, I think in light of your statutory

6 authority this goes beyond that, and that you ought to

7 examine that statement before adopting it.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

9 Aprea.

10 Any comments, questions?

11 Okay.

12 BOARD MEMBER EATON: I think maybe, Madam Chair,

13 that some of the issues are raised -- you did raise a

14 point that it is a discussion item that as these points

15 are raised either through staff, board members and/or

16 testimony here, we ought to check them against some of the

17 testimony to ensure that we are, at least, consistent

18 after whatever ultimately comes out of the discussion,

19 just for that kind of consistency.

20 CHAIRPERSON MOULTON-PATTERSON: I mean it seems

21 that certainly can be our vision. Is it our mission? I

22 don't know.

23 BOARD MEMBER EATON: I think it's semantics in

24 the sense of just can you know we do best use and some of

25 the other, approximately do our entire stuff, you know, it

1 should be the beneficial use I think that's what it really
2 boils down to, with out getting into a long protracted
3 things. I think it's a semantic thing that probably.

4 CHIEF DEPUTY DIRECTOR FISH: Madam Chair, if I
5 could. I believe that staff what were accomplishing with
6 that statement was a restatement of reduce reuse and
7 recycled.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. We could
9 think about that.

10 You know, I still feel -- maybe I'm getting mixed
11 up with vision and mission, but personally I would
12 certainly think it would be our vision, the highest and
13 best use, whether or not that is our exact mission, you
14 know, we could certainly --

15 Mr. Jones.

16 BOARD MEMBER JONES:

17 CHAIRPERSON MOULTON-PATTERSON: Do you have a
18 problem with it, you're from the industry?

19 BOARD MEMBER JONES: Well, I understand what Mr.
20 Aprea is saying, but I think that our mission is to reduce
21 the waste stream, to ensure that materials are managed to
22 the highest and best use and to protect public health and
23 the safety. And I think in protecting the public health
24 and safety, we're talking about the disposal component of
25 the -- this is our mission, I mean, of what we do.

1 So I'm not -- I think Mr. Eaton is probably right
2 it's semantics and, you know, maybe we have to look at the
3 word ensure as a point and see if it's -- maybe we have to
4 put another word there, but I don't have a problem with
5 it.

6 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

7 Let's go on to the values part.

8 Mr. Paparian, did you want to talk about your
9 change right here?

10 BOARD MEMBER PAPARIAN: Yeah. Again, generally
11 what I'm trying to get at is increasing our mission and
12 commitment to enforcement in both the values and goals.
13 And I think rather than necessarily word-smithing on some
14 of the enforcement stuff, we may want to just have a
15 discussion about whether that's a direction the Board
16 wants to this Board then, you know, if it is, you know,
17 staff has some suggestions, others could make some
18 suggestions about how to incorporate that the values and
19 goals. You know, if it isn't the direction the Board
20 wants to take, then the things I have in here on
21 enforcement become less relevant.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. Any
23 comments?

24 BOARD MEMBER JONES: Madam Chair.

25 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

1 BOARD MEMBER JONES: I do have some comments.

2 I've had some discussions on this one item. I, at lunch,
3 read the beginning of AB 939 and what our mandate is, and
4 it's clear that our mandate is to protect public health
5 and safety. And I don't think any board since 1989 or
6 1990 has ever done anything not to ensure that the
7 environment and public health and safety were our utmost
8 concern.

9 I have a problem with the fact that under values,
10 these principles that we struggle to uphold as we work to
11 fulfill our mission and our vision, each member of this
12 organization should know the values we stand for and to
13 act in accordance with them.

14 I think it's clear that our commitment to the
15 environment and public health and safety have to be our
16 overriding concern, our overriding value. I like the idea
17 that we say we build our certain in the environment in
18 everything we do. We act to protect public health and
19 safety in everything do. We use enforcement as a tool to
20 ensure compliance and to support our efforts to protect
21 the public health and safety and the environment.

22 I'm a little bit worried about the -- so I
23 would -- say I wouldn't include enforcement on that
24 commitment line, because I think it's clear the third
25 bullet.

1 And then the fourth bullet that says, we are
2 committed to eliminating, reducing and controlling adverse
3 public health and environmental impacts associated with
4 facilities under the Board's jurisdiction.

5 I guess when I read it, I wondered if we
6 eliminate it, then won don't have to reduce or control it.
7 If we reduce it, we can keep striving to eliminate it. If
8 we control it, maybe we've managed it. I'm just not sure.
9 I mean they are three nice words, but I'm not sure that --
10 I think we have a commitment to work with the locals to --
11 we have a commitment to manage or control adverse public
12 health and environmental impacts associated with
13 facilities under the Board's jurisdiction.

14 There's a problem with that term, I think,
15 because the facility is under the counties. It's under
16 the county's jurisdiction and we are the overriding agency
17 that concurs in a permit and then does inspections to make
18 sure that those counted eases are doing their job.

19 So we're not the EA in those facilities. We're
20 not the ones that are ensuring it. It's a local
21 insurance, and we're here to give policy direction and to
22 enforce through our regulations the tools they need to
23 manage those facilities safely and to State minimum
24 standards.

25 So I just don't know how we can do the 4th bullet

1 or what the clarity is there.

2 BOARD MEMBER PAPARIAN: You actually -- I'm mean
3 you actually do bring up some good points, Mr. Jones. And
4 maybe it should read something like a commitment to work
5 with local governments to control the adverse impacts.

6 BOARD MEMBER JONES: Well, how about the impacts,
7 because not every facility is an adverse impact. I mean,
8 you know, define adverse.

9 CHAIRPERSON MOULTON-PATTERSON: You know --

10 BOARD MEMBER PAPARIAN: I'm not assuming that
11 every facility has an adverse impact, but I'm assuming
12 there are adverse impacts associated with some facilities.

13 BOARD MEMBER JONES: Right. Well, there are
14 impacts associated with every facility, right, at some
15 time.

16 CHAIRPERSON MOULTON-PATTERSON: Would it hold
17 things up since we have agreed on our vision and our
18 mission, if Mr. Jones and Mr. Paparian work with Ms.
19 Packard and try to come up with something that was
20 agreeable, rather than do it right now it's difficult?

21 BOARD MEMBER MEDINA: Madam Chair, I think it
22 would be good if they Aye. With all the Board members.

23 CHAIRPERSON MOULTON-PATTERSON: Well, of course,
24 and we've had our chance to come in and give our input.
25 We certainly have, and you know it could come back to all

1 the Board members then.

2 Would you like to work with them, maybe have a
3 subcommittee of the three of you? I mean, I'm real
4 interested in this. This is very important, but we have
5 had a lot of meetings and our input and I just don't want
6 to sit up here and change word by word, is that going to
7 hold thing up?

8 ASSISTANT DIRECTOR PACKARD: If we take some time
9 outside of the Board meeting?

10 CHAIRPERSON MOULTON-PATTERSON: On the values.
11 Or if you want to do it right now, go ahead, but I just --
12 right now, I'm ready to vote for as it was with staff,
13 unless we can, you know, speed this up a little bit and --

14 BOARD MEMBER JONES: I'll second that.

15 CHAIRPERSON MOULTON-PATTERSON: -- have a little
16 agreement on these word. I just thought maybe the two of
17 you could work out --

18 BOARD MEMBER JONES: Madam Chair, if you want to
19 make a motion to take a staff recommendation, I'll second
20 that.

21 CHAIRPERSON MOULTON-PATTERSON: I hate to do that
22 to Mr. Paparian, you know, because he has some good
23 suggestions here and I want to think about them, but --

24 BOARD MEMBER JONES: Because I think we ought
25 include is we use enforcement as a tool.

1 BOARD MEMBER PAPARIAN: That's actually in the
2 original, then there was mistake and struck out and then
3 put back in there. But Madam Chair, I'm fine going in the
4 direction that you're suggesting, but I think that -- and
5 they can work out the language on a lot of this stuff.

6 I think when we get to the issue of enforcement
7 amongst our goals, I think we may have a fundamental
8 disagreement between myself and Mr. Jones, that maybe the
9 Board is going to need to settle. And maybe we just bring
10 that disagreement to the Board.

11 BOARD MEMBER JONES: Which one do you think we're
12 going to disagree on?

13 BOARD MEMBER PAPARIAN: Under the --

14 ASSISTANT DIRECTOR PACKARD: Are you talking
15 about the goals now?

16 BOARD MEMBER PAPARIAN: Yeah.

17 BOARD MEMBER JONES: He's going to pick. I just
18 want to hear because you may be shocked.

19 BOARD MEMBER PAPARIAN: The goals --

20 BOARD MEMBER EATON: Members, I'll ask that we
21 give direction to staff, because that's what the item is.
22 It's not a consideration Item. It's a request for
23 direction so request I'm going to ask staff to work with
24 Mr. Jones and Mr. Paparian to come back with a document,
25 and if there is any differences in that document we'll

1 take it up at that time.

2 BOARD MEMBER JONES: And then Staff can just shop
3 it round after we have a discussion.

4 CHAIRPERSON MOULTON-PATTERSON: That's kind of
5 what I had in mind. It was eliminating you, Mr. Medina.

6 BOARD MEMBER PAPARIAN: We can work it out and
7 try to identify the differences that we have and bring it
8 back to the Board.

9 BOARD MEMBER JONES: I really wan to know which
10 goal though.

11 (Laughter.)

12 BOARD MEMBER JONES: But let me just bring one
13 thing up real quickly, Madam Chair. It will only take two
14 seconds. It's fundamental to this thing, under the
15 commitment to partnership and service, we had here or
16 staff had we work in partnership with our internal and
17 external customers. And I remember that was part of both
18 the internal and external stakeholder meetings that we
19 had.

20 That's been stricken, and we say now we work in
21 partnership with our employees as well as the public,
22 impact to communities and nonprofits, business community,
23 and regulated community. We forgot some communities
24 there, but my real problem is this document is a document
25 of the Integrated Waste Management Board, and to say that

1 we will work with our employees presumes that this is the
2 6th of our document, and we have a commitment to work with
3 employees.

4 And that really bothers me, because I've gone
5 through this process twice, and our employees -- you know,
6 board members come and go. We're like, you know, whatever
7 somebody's whim and the staff is here every day, every
8 day. And they're what drives this place. They're the
9 ones that do the work. And I read that and it just really
10 struck me as I didn't understand. And I don't think it
11 was an intent, but that's how I got -- that this was from
12 six of us and some folks that, you know --

13 BOARD MEMBER PAPARIAN: If that's how it's read,
14 the point is well taken and that's -- to me that's fine to
15 change that.

16 BOARD MEMBER JONES: Back to internal and
17 external?

18 BOARD MEMBER PAPARIAN: The problem I have was I
19 don't know who customer is, and what we're trying to do is
20 give some definition to what the customer is. I
21 understand the customer of a supermarket. I'm not sure I
22 understand the customer of this Waste Board. And I'm
23 trying to get some clarity there as to who that customer
24 is. But again perhaps that's something you and I can try
25 to work out.

1 CHAIRPERSON MOULTON-PATTERSON: Could you two
2 work it out. And, you know, certainly, if you want my
3 input, you know, I want to see enforcement in there. And
4 you know where we have enforcement authority, I want to
5 use it and I think every board member does.

6 So maybe you two could get together and show all
7 of the members' offices, and then we can bring this back.
8 Would that be okay with you, Ms. Packard.

9 ASSISTANT DIRECTOR PACKARD: If I could just say,
10 if you recall the process that we're describing to you is
11 to now take -- basically take the goals and develop the
12 objectives and strategies and performance measures. And
13 we have one month to do that starting tomorrow.

14 CHAIRPERSON MOULTON-PATTERSON: Can you guys --

15 ASSISTANT DIRECTOR PACKARD: If we don't have the
16 goals, we can't do the rest of the work, which will impact
17 the timeframe, and we are already behind in terms of
18 CalEPA's timeframe from wanting a strategic plan from the
19 Board.

20 So if I could suggest an alternative rather than
21 going through line by line on the goals. If the Board
22 could make that policy decision that Mr. Paparian was
23 talking about, do you want a goal about enforcement, then
24 we can go back, as the executive staff the group that
25 drafted a document, and make sure that there is a goal

1 about enforcement or a goal about, whatever, environmental
2 justice, and utilize those concepts to work toward the
3 objectives strategies and performance measures.

4 CHAIRPERSON MOULTON-PATTERSON: And we'd see it
5 before?

6 ASSISTANT DIRECTOR PACKARD: And then you would
7 see all of that together, the language and you could, you
8 know, word-smith it or change the language itself, but the
9 concept would be there and then we could continue with our
10 work.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. We're
12 going to go through the goals, so you'll have it. We
13 don't want to be late to CalePA.

14 ASSISTANT DIRECTOR PACKARD: Okay.

15 CHAIRPERSON MOULTON-PATTERSON: Okay.

16 Goal number one.

17 ASSISTANT DIRECTOR PACKARD: Well, what might be
18 useful is for Mr. Paparian to, I guess, discuss again the
19 changes, you know, explaining the rationale for the
20 changes, et cetera, and then move on. But there are a
21 couple of goals in here that are proposed by Mr. Paparian
22 that I've heard at least support of several board members
23 for environmental justice.

24 CHAIRPERSON MOULTON-PATTERSON: You have my
25 support on enforcement. However you want to word it,

1 that's up to you guys as long as you run it by everybody.

2 BOARD MEMBER PAPARIAN: If we're going through
3 these goals, I think there is -- from the last agenda
4 item, I think there's general agreement on a general
5 concept of goal number 7 in my draft environmental justice
6 goal. From the zero waste discussion earlier, I think
7 there's general agreement on number 8 possibly with
8 changing recycle to reduce, reuse or recycle.

9 CHAIRPERSON MOULTON-PATTERSON: Right. Mr. Jones
10 said he was for that, right, Mr. Jones?

11 BOARD MEMBER PAPARIAN: So I think there are some
12 who wanted to put number 3 back in, in my draft line,
13 which is fine with me.

14 CHAIRPERSON MOULTON-PATTERSON: Yes, definitely.

15 BOARD MEMBER PAPARIAN: And then we get to number
16 1 and number 6. Number 1, again, was attempting to put
17 further definition to who it is we're reaching out to. I
18 think that's something that we can discuss outside that.
19 We're getting into real nit-picky word-smithing that we
20 can discuss outside the context of the meeting.

21 And then finally, number 6 is the one that puts
22 enforcement into the goals by saying promote integrated
23 and consistent permitting, inspection and enforcement
24 efforts.

25 ASSISTANT DIRECTOR PACKARD: I do have a question

1 about that one. Is that then not a subset of number four
2 is different, and is it really intended to reflect the
3 cross-media approach or what do you mean by integrated I
4 guesses is it?

5 BOARD MEMBER PAPARIAN: Again, the attempt is to
6 really inject enforcement amongst the goals.

7 BOARD MEMBER JONES: I have no problem with that
8 goal, because everybody in my industry that operates by
9 the rules, which I always did, wanted the Board to enforce
10 against those people that don't. I have no problem with
11 that.

12 BOARD MEMBER PAPARIAN: So maybe we're fine.

13 BOARD MEMBER JONES: Big surprise.

14 (Laughter.)

15 BOARD MEMBER JONES: But I have a problem with
16 number one, because you've excluded government, you've
17 excluded -- you know, and I mean to say include the
18 public, nonprofits, business community and the regulated
19 community, we don't have local government, we don't have
20 industry, we don't -- you know, so --

21 CHAIRPERSON MOULTON-PATTERSON: Maybe we should
22 just leave it in.

23 BOARD MEMBER JONES: I think we ought to just go
24 back to the original words on that one, because every time
25 we try to make a list of who's included, we will exclude,

1 and it won't be by purpose. And I'm not saying that there
2 was any -- you know what I'm saying, it's in trying to
3 make a list there's always going to be somebody excluded.

4 If Mahajer was here he'd be going bananas right
5 now.

6 (Laughter.)

7 BOARD MEMBER JONES: So to increase participation
8 in resource conservation, integrated waste management, I
9 don't have a problem with that. Waste prevention, product
10 stewardship, manufacturer responsibility to reduce waste
11 and create, a sustainable diversion infrastructure
12 confuses me. Diversion infrastructure is part of a
13 sustainable system.

14 ASSISTANT DIRECTOR PACKARD: If I could make a
15 comment on that. I think it narrows the intent when we
16 wrote the words. It narrows it only to the diversion
17 infrastructure. In our minds, there was a broader
18 definition of sustainability that includes everything
19 like -- everything from start to finish, not just about
20 the end where we're diverting waste from being disposed.
21 So it --

22 BOARD MEMBER JONES: If we say a sustainable
23 infrastructure that's going to cover everything.

24 BOARD MEMBER PAPARIAN: Mr. Jones, I think I can
25 help move this quickly. Let's go back to the original on

1 that.

2 CHAIRPERSON MOULTON-PATTERSON: Just one moment
3 on number 1, I liked the original, but I liked your
4 resource conservation.

5 BOARD MEMBER JONES: Yeah, add that part.

6 CHAIRPERSON MOULTON-PATTERSON: In we add that.

7 BOARD MEMBER PAPARIAN: Great.

8 BOARD MEMBER JONES: Let's say okay so we say
9 after increased participation --

10 CHAIRPERSON MOULTON-PATTERSON: And in resource
11 conservation.

12 BOARD MEMBER JONES: -- we have resource
13 conservation and integrated waste management, waste
14 prevention. Absolutely, that's a good fix, all that
15 stuff.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. And number
17 two is fine.

18 BOARD MEMBER JONES: But we take out diversion
19 right, Mr. Paparian?

20 BOARD MEMBER PAPARIAN: Correct.

21 CHAIRPERSON MOULTON-PATTERSON: Okay, so you have
22 number 1, number 2 is okay, put back on 3, 4 is fine, 5 is
23 fine, 6 is fine, any problem with 7 or 8?

24 BOARD MEMBER JONES: No.

25 BOARD MEMBER PAPARIAN: We made a change on 8.

1 Change the word recycle to reduce, reuse or recycle.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Have you
3 got all that?

4 We did it.

5 Okay, thank you.

6 Any other comments. Oh, did Mr. Aprea leave?

7 BOARD MEMBER EATON: I just have one of Mr. Liss,
8 and you mentioned in your comments that there were
9 landfills leaking in California. Do you have information
10 as to which ones they are?

11 MR. LISS: No, I was referring to the report.

12 BOARD MEMBER EATON: And I wasn't being
13 facetious, because if that's the case, we need to know
14 that. If you have information as to a leaking landfill,
15 I'd like to find that out, because our staff hasn't
16 brought it to our attention. And I don't think if -- I
17 mean if there is one we would like to do it because we can
18 clean it up.

19 MR. LISS: I believe the reference was to the
20 water use report last year where they reference concern
21 about the possibility of leaking. I may not have been
22 absolutely clear in that. Around the country it is much
23 more of a concern than in this state.

24 BOARD MEMBER EATON: Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 Okay, thank you, Mr. Liss.

2 BOARD MEMBER MEDINA: Madam Chair, glad to see
3 that we did adopt the goals and that we did include
4 environmental justice in there.

5 CHAIRPERSON MOULTON-PATTERSON: Yes, we did.

6 BOARD MEMBER MEDINA: And I must say that one of
7 the previous speakers when he Aye. Addressed the -- a
8 ensure all materials are managed to their highest and best
9 use.

10 Again, I had problems with that one statement
11 when I first read through it, and it may be correct, but
12 that's one of the things that struck me when I read
13 through it. I don't know if there's anything more
14 appropriate.

15 CHAIRPERSON MOULTON-PATTERSON: I think we said
16 maybe look at that and come back on that.

17 ASSISTANT DIRECTOR PACKARD: We can certainly do
18 that.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

20 ASSISTANT DIRECTOR PACKARD: I think just being
21 able to have --

22 BOARD MEMBER JONES: How about work to promote.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 BOARD MEMBER JONES: Just real quickly. How
25 about if we just change that word ensure to promote and

1 whatever other preposition you have to put with it. We
2 are promoting the best use of materials management.

3 CHAIRPERSON MOULTON-PATTERSON: I think that
4 fits.

5 BOARD MEMBER JONES: Does that work for you?

6 CHAIRPERSON MOULTON-PATTERSON: Yeah, that sounds
7 great.

8 BOARD MEMBER EATON: I'm with all of you.

9 CHAIRPERSON MOULTON-PATTERSON: Okay, waste
10 prevention, Ms. Wohl.

11 DEPUTY DIRECTOR WOHL: Good afternoon, Madam
12 Chair and Board members, Patty Wohl, Waste Prevention and
13 Market Development Division.

14 Agenda Item 31 which has been revised is
15 consideration of approval of the scope of work for the
16 Native American Intergovernmental Greening Project. And
17 Kathy Marsh will present.

18 MS. MARSH: Good afternoon, this item proposes to
19 send out a Request For Proposal for a consultant who has a
20 cultural perspective and experience in Native American
21 society to develop a guide book. The guide book will be
22 specifically designed to encourage the use of
23 environmentally preferable products and other waste
24 prevention practices for building an construction
25 projects, and in the daily operation of businesses that

1 are owned and operated by California's Native American
2 tribes.

3 This scope of works timetable has been changed
4 from 18 months to 13 months, which will begin from the
5 date DGS Legal reviews and approves it. Staff requests
6 the Board to approve the scope of work and to adopt
7 resolution 2001-210 to move this project forward.

8 That's it.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you very
10 much.

11 Mr. Medina, did Aye. Have Aye. Comment on this?

12 BOARD MEMBER MEDINA: I don't Aye. Aye. To add to
13 that.

14 BOARD MEMBER PAPARIAN: I'll go ahead and move
15 it. I'll move Resolution 2001-210.

16 BOARD MEMBER MEDINA: I'll second Aye. Aye. Okay,
17 thank you. Thank you for your work.

18 Please call the roll.

19 Agenda item 31. It's resolution 2001-210 moved
20 by Mr. Paparian seconded by Mr. Medina, revised.

21 SECRETARY VILLA: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY VILLA: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY VILLA: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY VILLA: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY VILLA: Roberti?

5 Moulton-Patterson?

6 CHAIRPERSON MOULTON-PATTERSON: Aye.

7 Agenda item 32.

8 DEPUTY DIRECTOR WOHL: Agenda Item 32

9 Consideration of Approval of Contractor for the Plastics
10 White Paper Contract.

11 John Nuffer will present.

12 MR. NUFFER: Some day maybe we'll be first.

13 John Nuffer with the Waste Prevention and Record
14 Development Division. Item 32 seeks your approval of the
15 New Point Group as contractor for the plastics white paper
16 contract. The Board at its January 2001 meeting approved
17 the scope of work for the plastics white paper in an
18 amount not to exceed \$75,000.

19 Through the white paper, the contractor would
20 take an independent look at the use, disposal and
21 recycling of plastics in California, and develop for the
22 Board creative policy options designed to increase the
23 recycling of plastics and increase the use of more
24 post-consumer resin in products and packaging.

25 Staff provided a contractor profile for the New

1 Point Group at the Board briefing. The New Point Group
2 has significant experience related to plastics and policy
3 development and including projects for the Board and for
4 the Department of Conservation.

5 They're also independent of any of our
6 stakeholders. They only do work for the State and local
7 governments.

8 We also checked out the references. The
9 references were sterling. We're, therefore, recommending
10 the New Point Group as contractor for the plastics white
11 paper and ask that you adopt Resolution 2001-209.

12 We'd be happy to answer any questions.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Mr. Medina.

15 BOARD MEMBER MEDINA: Madam, Aye. Aye. Have no
16 questions. I'd like to move Resolution 2001-209 revised
17 approval of contractor for the plastics white paper
18 contract fiscal year 2000/2001 contract concept number 9,
19 contract number item IWM-COO77.

20 BOARD MEMBER JONES: Second.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
22 motion by Mr. Medina seconded by Aye. Jones.

23 Please call the roll.

24 SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY VILLA: Jones?

2 BOARD MEMBER JONES: Aye.

3 SECRETARY VILLA: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 SECRETARY VILLA: Paparian?

6 BOARD MEMBER PAPARIAN: Aye.

7 SECRETARY VILLA: Roberti?

8 Moulton-Patterson?

9 CHAIRPERSON MOULTON-PATTERSON: Aye.

10 DEPUTY DIRECTOR WOHL: Madam Chair, I'd like to
11 do Item 34 prior to Item 33. We have a last minute
12 changes on the wording for 33.

13 CHAIRPERSON MOULTON-PATTERSON: Okay.

14 So Agenda Item 34 is the discussion of options to
15 provide advance Notice of all container and PET Rigid
16 Plastic Packaging Container recycling rates by using a
17 prospective rate or the previous year's rate.

18 And Maureen Goodall will present.

19 MS. GOODALL: It came up a lot faster than I
20 thought. My name is Maureen Goodall and this afternoon
21 I'm going to be talking about Item number 34, which is
22 discussion of options to provide advanced notice in all
23 container and PET RPPC recycling rates by using a
24 prospective rate or the previous year's rate.

25 And to begin, I just want to say that this

1 concept of exploring a prospective rate was initiated by
2 Board Member Eaton, and was previously included in the
3 November item from last year, November last year's board
4 meeting. And we want to go a little bit more in depth on
5 the item today.

6 For quite awhile we've been hearing from industry
7 that they don't know whether they have met their statutory
8 requirement of 25 percent recycling of RPPCs until it's
9 too late for them to do anything about it.

10 And they want to have time to take alternative
11 actions to ensure that they're in compliance with the law.
12 Using a prospective rate for the previous year's rate
13 would give industry the advanced notice in they need in
14 order to enable them to plan for their individual
15 compliance if it is necessary. First of all, I would like
16 to take just a couple minutes to describe what we mean by
17 previous year's rate and prospective rate.

18 When we say prospective rate, we're talking about
19 a recycling rate that's been estimated for a future period
20 of time, in this case it could be for the following year.
21 As opposed to a previous year's rate when we say that,
22 we're talking about using the latest actual rate
23 calculations, and then applying it for enforcement
24 purposes to the following year.

25 And in the latter case for using the previous

1 year's rate, this rate may or may not reflect the actual
2 recycling rate for the year it is applied. But it's the
3 actual rate for the last year calculated, so that's the
4 difference between the two.

5 So to get on with the item, in order to have the
6 most productive discussion possible, what I'd like to do
7 is take each of the option groups, there's three of them,
8 individually and present one at a time, and then have a
9 discussion between each, allowing you time to talk about
10 them before I proceed with the presentation.

11 So the first option group is options for use of
12 prospective rate or the previous year's rate, which, in
13 your packet, is option 1A through 1C. And basically these
14 deal with whether or not you'd like to use the prospective
15 rate or previous year's rate. And in summary the options
16 include estimating a prospective rate for advisory
17 purchases or estimating a prospective rate for compliance
18 purposes or finally using the previous year's rate.

19 The first one, Option aA, is estimate prospective
20 rates in December of each year for the following year for
21 advisory purposes only and continue to calculate the RPPC
22 rates in July after the compliance year is completed.

23 Basically with this option, the Board would be
24 putting out a prospective rate each year, but the industry
25 couldn't really count on it being the actual rate when it

1 comes time for compliance with the law.

2 We would still be using the rate calculated the
3 year after for compliance with the law. For this option,
4 there could be times when the prospective rate is either
5 higher or lower than the actual calculated rates. This
6 could cause difficulties, especially in instance of one or
7 the other is above or below 25 percent.

8 However, the Board does have discretion as to
9 whether it decides to have individual companies certify
10 for compliance in any particular year.

11 Option 1B is estimate prospective rates in
12 December of each year for the following year and pursue
13 legislation and/or regulations to use these rates for
14 compliance purposes. In this case, the Board would be
15 putting out a prospective rate each year. And the
16 industry could count on it for compliance purposes.
17 Thereby, they would be better able to plan for compliance.

18 This method is the one that's currently used by
19 the State of Oregon. And their success in estimating
20 prospective rates has been mixed. By that I mean they
21 have correctly indicated whether the recycling rate is
22 above or below 25 percent each year. However, their
23 estimated percentages have not been very accurate. And,
24 for example, so you understand what I'm talking about, in
25 1996, which is the last year they put out a specific rate,

1 their prospective rate for that year was 33.3 percent.

2 And when they calculated the actual rate for the same
3 year, it turned out to be 29.7 percent.

4 In addition Oregon hasn't yet had a year where
5 their recycling rate has fallen below 25 percent, which is
6 also their statutory threshold. And therefore, the
7 industry hasn't had any reason for challenge of their
8 method of doing things.

9 And the third and final option is in this group
10 is 1C rely on the previous year's actual recycling rates
11 for compliance in the current year. Initiate compliance
12 certifications in March of the year following the
13 compliance year, if the all-container rate is below 25
14 percent, and pursue legislation and/or regulations to use
15 the previous year's rates for compliance purposes.

16 With this option, the Board would approve its
17 annual RPPC recycling rates, in July for the previous year
18 as normal. But, instead we would use them for compliance
19 purposes for the current year.

20 In essence this method shifts the compliance year
21 ahead one year allowing manufacturers some notice
22 regarding whether or not they will be required to
23 individually comply with the RPPC law.

24 And a summary of the pros and cons for this
25 section is on the pros, all of these will give

1 manufacturers advanced notice in recycling rates, and all
2 of them will provide the information to our stakeholders
3 in a timely manner.

4 The cons for this section are that the recycling
5 rate projections are less accurate than retrospective
6 calculations. And that's for the prospective not the
7 previous year.

8 And projecting an incorrect recycling rate could
9 cause more problems than it solves. And then for all of
10 these options, it would increase staff workload.

11 In addition, staffs, both plastics staff and
12 legal staff feel that any of the above options that I've
13 talked about could be achieved through regulations and
14 would not necessarily require a legislative or statute
15 change.

16 So this ends the first portion and I'd be happy
17 to answer questions or whatever you'd like at this point.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: Just a quick question, I
20 like the idea of Oregon, but their the situation is
21 they've never been below their mandate. How does the
22 industry feel about the fact, or the plastics folks, your
23 stakeholder group. For the last three years the plastics
24 industry has not been able to meet the mandate of
25 California?

1 So it would seem the math would be easy to do
2 because, you know, you have actual numbers of how far they
3 were below compliance? Is it reasonably easy to make that
4 determination, you know, when you're looking out a year
5 ahead that they're so far behind it would take some
6 phenomenal effort to get them there and would they -- I
7 mean, if we did that, would they end up coming back and --

8 MS. GOODALL: Well, normally, that would be an
9 easy progress to make, except that last year we expanded
10 the bottle bill and there's a lot more recycling that's
11 happening, so we're going to be a lot closer than we have
12 in the last few years.

13 BOARD MEMBER JONES: That's good news.

14 MS. GOODALL: So it's an issue.

15 CHAIRPERSON MOULTON-PATTERSON: Okay.

16 BOARD MEMBER PAPARIAN: Madam Chair?

17 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

18 BOARD MEMBER PAPARIAN: In terms of staff
19 resources and efforts as I'm looking at your A, B and C
20 there, it seems like your option C would be the least
21 staff resource intensive in terms of making it work?

22 MS. GOODALL: That's correct, we would just be
23 applying the rate that we already calculated.

24 BOARD MEMBER PAPARIAN: And, you know, as you
25 pointed out, is there some difficulty in actually making

1 your prospective guess, you know, so that the accuracy
2 under A and B may be questionable. So as I read this and
3 I hear the presentation, the C option sounds pretty good
4 to me.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton, you
6 asked about this.

7 BOARD MEMBER EATON: Option 1C.

8 MS. GOODALL: Correct.

9 BOARD MEMBER PAPARIAN: That's what I'm looking
10 at.

11 BOARD MEMBER EATON: Part of the problem, quite
12 frankly, from that perspective is that it does require a
13 whole statutory overhaul. And to try and sort of make,
14 you know, a hybrid of the prospective with the existing
15 statutory scheme really is quite the problem.

16 And you're right, the prospective rate is
17 speculative in the sense that you won't really know what
18 the rate is until it's calculated at that time.

19 However, if you have listened, as we have, and
20 actually if you look at Item number -- the item before
21 this, I think Madam Chair you can attest to it, you tried
22 to get involved in this issue, where you tried to combine
23 the two or three. And I'm not, you know -- just to see if
24 it would work.

25 And it became very difficult when you look back

1 at situations where they tried to meet the rate, and then
2 you have the industry people come in and tell you well,
3 you know, we have product lines, we have three years by
4 which we have to make our changes, et cetera.

5 So the whole idea behind the prospective scheme,
6 and that's really what we're talking about here, is the
7 fact that you can frame it in such a way that you can say
8 okay, cut all your little, you know, gamesmanship out,
9 we're going to shoot for 28 percent, and in two years or
10 whatever that rate is and it's calculated, let's say it
11 comes out to 25 percent is the actual rate.

12 The way you build that in is that if you're above
13 or below -- or if you're above that rate, the actual rate,
14 when it's calculated then you're fine. So it doesn't
15 really matter if you're off by one or two like Oregon was
16 at 31 or 32 or 33 if you came to 28, all those that were
17 above 28 were there.

18 And I think that's the way that you have to frame
19 it, but it also takes away all of the industry and all of
20 the plastic resin manufacturers' argument that for some
21 reason you guys build up all this staff time, you know, to
22 try and just work out all the little whims. Well, we
23 don't have these records or that record. The whole idea
24 with the prospective, the theory behind it, whether it be
25 Oregon or any other State that's contemplating it is the

1 fact that they're on notice and they have no excuse by
2 which not to meet that.

3 And when it's calculated, you're either above it
4 or you're below it. And if you're below it, you pay it,
5 you pay whatever the enforcement action is. I think
6 that's a simple scheme, but in order to do that and have
7 our have staff do it is going to require a whole statutory
8 situation where you really throw out what our RPPC law is
9 right now, for the most part and work towards trying to
10 make it such that it will work in whatever categories are
11 included in there, as you know, they'll come marching in
12 and they'll show you what bottles apply, don't apply,
13 what's in, what's not in, that kind of thing.

14 That's what, you know, is there, but I think that
15 it would be very difficult for me to add more layers of
16 hybrids on you, when you already know what it takes just
17 to come up with the actual rate for one year.

18 So what I'd like to be to see is that if there is
19 one option here that's really good to come up with a
20 statutory scheme, which we could then go and try and shop
21 and sell through stakeholder involvement, that would be
22 the case, because there are unique situations to Oregon,
23 for instance, what they command of their local
24 governments.

25 We don't have that statutory authority nor do we

1 have that collection system that they have, so there's a
2 lot of distinction. The issue really for us board members
3 is do we want our enforcement to be retrospective so you
4 look back and say you didn't make it, so therefore you're
5 fined or do you want to look prospective and say you've
6 got no excuse, you didn't meet it, and you had every
7 opportunity to meet it.

8 And you can change your product lines, you change
9 your resin lines, you can change everything, that's really
10 the issue. And if that's a fundamental issue in decision
11 making, then I think you go back to staff and say we'd
12 like find something that provides that.

13 If you want to continued to go retrospective,
14 then it's just as it is. That's fine.

15 CHAIRPERSON MOULTON-PATTERSON: I certainly
16 don't.

17 MR. ORR: Mr. Eaton, If I might clarify. Bill
18 Orr with the Waste Prevention Market Development Division.
19 What we've been trying to do and part of the reason we
20 brought this item back is that we've been exploring the
21 possibility of being able to pursue either a prospective
22 raise or using the previous year's rate as an
23 administrative solution, that we could either do it
24 through board direction or at the most through a
25 regulatory change.

1 We have also been seeking a legislative solution
2 for the last year or so, and there are other issues that
3 we haven't been able to work through, so rather than
4 waiting until some time in the future where we can bring
5 forward a consensus proposal to address all of the
6 outstanding issues, we brought forward with us this one
7 item in hopes that we might be able to address it
8 administratively.

9 BOARD MEMBER EATON: Which legislative proposal.

10 MR. ORR: What's that?

11 BOARD MEMBER EATON: What's the legislative
12 proposal, I haven't seen it?

13 MR. ORR: Well, we had a legislative proposal
14 that we had shared with the interested parties last fall
15 when we were trying, and it didn't really move anywhere,
16 and I think we were having difficulty achieving consensus
17 on that, and so we backed away from that, and that's why
18 we -- I think that this is one issue where there was
19 general agreement. And I think that the industry is here
20 to speak on behalf of this approach.

21 CHIEF COUNSEL TOBIAS: Madam Chairman, can I add
22 something to that. Legal is in agreement with that.
23 We've been over the statutes, and we do feel like there is
24 room for the Board to either decide to use this approach
25 or to be even stronger to do a regulation package, which,

1 of course, will allow the discussion to take place in
2 public with regulated parties and to see, you know,
3 whether there is opposition or support or neutrality
4 towards it.

5 Or then, you know, of course seeking a
6 legislative solution, you know, always provides some kind
7 of final clarity, but we are saying in this particular
8 situation we think the statute is susceptible to this
9 interpretation and that the Board could prudently pursue
10 this.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Well,
12 thank you. We do have a speaker. And then I guess you
13 just need our direction here.

14 MS. GOODALL: This is a discussion item.

15 CHAIRPERSON MOULTON-PATTERSON: Discussion, okay.
16 Well, I certainly like the prospective rate.

17 Mr. Larson.

18 MR. LARSON: Thank you, Madam Chair and members.
19 Yeah I just wanted to provide for the record information
20 that the American Plastics Council would certainly endorse
21 and support a prospective or a forward looking rate, all
22 of the discussions for the reasons that have already been
23 stated, so I just want to be on the record for that.

24 I would encourage, though, if we do bring a
25 consideration item back for making this change in a

1 regulatory manner that we go -- you direct also that the
2 regulations immediately go into a revision process so that
3 we can get this incorporated. There's a number of changes
4 this already needed into the regulations on the Rigid
5 Plastic Program, as it stands today, because of the
6 experience that your board staff have gained over
7 implementing this over a number of years now.

8 So the regulations I would encourage be followed
9 immediately after the decision to go with the
10 prospective -- the forward looking rate.

11 Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Can I assume that
13 all the members are favorable to a prospective rate? What
14 else do you need? Do you need any other direction from
15 us?

16 CHIEF COUNSEL TOBIAS: Well, I think, Madam
17 Chair, what you might want to do if direct, if you do want
18 the regs to come back, we could come back with emergency
19 regs that would put this into effect. If it's permanent
20 regs, it might take just a little while longer, but you
21 might want to do it. I'd certainly, you know, go ahead
22 with anything that Ms. Wohl decides, but I think legal
23 feels that it wouldn't take that much to put these into a
24 set of emergency regs.

25 CHAIRPERSON MOULTON-PATTERSON: Okay, yeah.

1 CHIEF COUNSEL TOBIAS: I'm just offering that up.

2 MS. GOODALL: Could you clarify which option
3 you're leaning towards.

4 CHAIRPERSON MOULTON-PATTERSON: Weren't we
5 looking at 1C, is that what --

6 MS. GOODALL: I just wanted to clarify that.

7 CHAIRPERSON MOULTON-PATTERSON: Yes, since we
8 didn't have a staff recommendation, which one did the
9 staff like.

10 MS. GOODALL: We would recommend 1C.

11 CHAIRPERSON MOULTON-PATTERSON: Is that okay with
12 you Mr. Eaton?

13 BOARD MEMBER EATON: Yeah I'm just having a
14 problem on page 34-5 seeing where option 1C uses a
15 protective rate.

16 MS. GOODALL: Option 1C is not as we defined a
17 prospective rate but it's the previous year's rate, and
18 that's the one where we are applying the actual
19 calculation from the latest year for compliance in the
20 following year.

21 BOARD MEMBER EATON: So this year we determined
22 it was 30 percent, whatever. How does it function?

23 MS. GOODALL: So next month we'll come to you
24 with a rate for 2000.

25 BOARD MEMBER EATON: Let's say hypothetically 30

1 percent.

2 MS. GOODALL: Let's say it was 30, and you
3 decided to down this path with 1C, we would then apply
4 that rate for compliance purposes to the year 2001, and so
5 industry would be on notice for this year that that would
6 be the rate 30 percent and they would not have to
7 individually comply for this year.

8 BOARD MEMBER EATON: That's fine.

9 CHAIRPERSON MOULTON-PATTERSON: Okay.

10 DEPUTY DIRECTOR WOHL: So it's prospective in how
11 it's used, but it's prospective in how it's. We're going
12 to use the previous year's rate in prospective way, if
13 that's makes sense.

14 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you
15 very much.

16 Okay, 33.

17 DEPUTY DIRECTOR WOHL: Okay Agenda item 33 is
18 consideration of approval of the Rigid Plastic Packaging
19 Container RPPC Compliance Agreement for compliance years
20 '97, '98 and '99, and consideration of approval to
21 schedule public hearings to consider fines and penalties.
22 And Michelle Marlowe will present.

23 MS. MARLOWE: Good afternoon, board members
24 Chairwomen Moulton-Patterson. I'm Michelle Marlowe with
25 the Plastics Recycling Technology Section in the waste

1 prevention and market development division.

2 And I'm pleased to bring to you today our first
3 group of companies that we are making recommendations for
4 from the combined 1997/98 and '99 certification.

5 As some of you may recall in February of this
6 year, we were directed to begin negotiating compliance
7 agreements with companies that filled out certifications
8 acknowledging that they were out of compliance for one or
9 more of those years.

10 And we have out of that approximately 1,000
11 companies that we randomly surveyed, we had approximately
12 200 initially sent in certifications stating that they
13 were out of compliance. And so we're bringing this group
14 of 200 to you in groups of 30 at a time, approximately,
15 based on first in first out criteria.

16 So those folks that responded earliest, we'd like
17 to deal with first. Again our first group of 30 companies
18 we -- the agenda item says we're bringing 22 compliance
19 agreements to you today, and unfortunately due to last
20 minute negotiations that number has dropped to 21.

21 So what I have before I guess I really begin is a
22 revised resolution for Chem Spec. So Chem Spec we had
23 originally in our list of compliance agreements and now we
24 would like to revise that recommendation and include them
25 on the list for recommending a public hearing for them,

1 and I'll deal with that more later, but I have revised --

2 BOARD MEMBER MEDINA: If you could read the
3 resolution number that would help.

4 MS. MARLOWE: You bet, it's 2001-187. And I've
5 put some on the back table for the public as instructed
6 and I believe I'm supposed to give this stack to Deborah.

7 So with regards to the 21 companies now that we
8 are asking you to approve our recommendations to enter
9 into compliance agreements with, they're listed
10 alphabetically in the item, and the resolutions are all
11 identical except for one, which is the Multi-Clean
12 corporation and that resolution number is 2001-195.

13 They had asked for some specific language changes
14 in their compliance agreement, which we were negotiating
15 up until the last minute, I think, today. And she has for
16 you that slightly revised wording in their compliance
17 agreement, I think, Deborah. They're being passed out and
18 there are some on the back on table.

19 And their issues had to do with newly introduced
20 products and some more specific language having to do with
21 source reduction as an option. Other wise the agreements
22 are identical for all of these companies that we're
23 recommending for compliance agreements today.

24 In trying to be brief, I know it's been a long
25 meeting, unless you have specific questions about the

1 compliance agreements, themselves, I'd like to just ask
2 that you accept our recommendations and approve
3 resolutions.

4 Thank you.

5 Linda is shaking her Head so I'm going to take
6 that as a yes. And we numerically it begins with
7 resolution 2001-184 and 185 but then we have no 186, so
8 then numerically sequentially after that we have 187
9 through 206 as compliance agreement resolutions that we're
10 asking that you approve today.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 Mr. Medina.

13 Aye. Am Aye. I'd like to move adoption of
14 Resolutions 2001-184, 185 and resolutions 2001-188 through
15 2001-208. I'd like to move adoption of the compliance
16 agreements with the listed companies for compliance years
17 '97, '98 and '99.

18 MS. MARLOWE: Slight correction, Resolution 207
19 and 208 have to do with the public hearings.

20 CHAIRPERSON MOULTON-PATTERSON: Have to do with
21 what?

22 MS. MARLOWE: Have to do with recommendation for
23 the public hearings not the compliance agreements. The
24 compliance agreements run through resolution number 206.

25 CHAIRPERSON MOULTON-PATTERSON: 206.

1 BOARD MEMBER MEDINA: Okay, up through 206.

2 MS. MARLOWE: And he didn't mention 187.

3 CHAIRPERSON MOULTON-PATTERSON: No, we're going
4 to do that separately. Okay, I'll second that. Motion by
5 Mr. Medina seconded by Moulton-Patterson. Please call the
6 roll.

7 SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Aye.

9 SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Aye.

11 SECRETARY VILLA: Medina?

12 BOARD MEMBER MEDINA: Aye.

13 SECRETARY VILLA: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 SECRETARY VILLA: Moulton-Patterson?

16 CHAIRPERSON MOULTON-PATTERSON: Aye.

17 Mr. Medina.

18 BOARD MEMBER MEDINA: Aye.

19 CHAIRPERSON MOULTON-PATTERSON: No I just mean
20 did you want to be ready to do Resolution 2001-187,
21 revised, to approve.

22 BOARD MEMBER MEDINA: I'd like to move approval
23 of resolution 2001-187 revised.

24 CHAIRPERSON MOULTON-PATTERSON: And I'll second
25 that.

1 Please call the Roll. Or substitute the
2 previous -- can we substitute the previous roll call.

3 BOARD MEMBER JONES: That's fine with me.

4 BOARD MEMBER EATON: Absolutely.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. Substitute
6 the previous roll call.

7 MS. MARLOWE: And then Resolution 207 and 208 are
8 also recommendations for public hearings along with
9 resolution 186 -- or 187, I mean.

10 CHAIRPERSON MOULTON-PATTERSON: Okay.

11 BOARD MEMBER MEDINA: Yes, I'd like to move
12 Resolution 2001-207 and Resolution 2001-208.

13 CHAIRPERSON MOULTON-PATTERSON: And I'll second
14 that.

15 And substitute the previous roll call.

16 Thank you very much. We're finished now?

17 MS. MARLOWE: That works for me.

18 CHAIRPERSON MOULTON-PATTERSON: Okay. And Thank
19 you Ms. Wohl.

20 And we'll move into the diversion.

21 DEPUTY DIRECTOR SCHIAVO: Good afternoon. Pat
22 Schiavo with the Diversion Planning and Local Assistance
23 Division. Item number 36 is consideration of staff
24 recommendation on the compliance of compliance order --
25 completion of compliance order IWMA BR99-81 and

1 consideration of the 1997/98 Biennial review findings for
2 the source reduction and recycling element and household
3 hazardous waste element for the unincorporated Mono
4 County.

5 And Tabetha Willman of the Office of Local
6 Assistance will be making this presentation.

7 MR. WILLMAN: Good afternoon, Madam Chair and
8 Board Members. Again, my name is Tabetha Willman. I'm
9 with the Office of Local Assistance.

10 This item is in response to a compliance order
11 placed on the county of Mono for the 1995/1996 biennial
12 review. The county was placed on compliance as their
13 diversion rates did not reflect their program
14 implementation efforts.

15 A Board of Equalization audit and the Benton
16 Crossing Landfill found that the disposal tonnage for 1995
17 and 1996 was underreported. The county is submitting this
18 corrected tonnage for the Benton Crossing Landfill to
19 fulfill its compliance orders.

20 As a result of this corrected tonnage, the county
21 total disposal tonnage for the Benton Crossing Landfill
22 has been increased for 1996. Based upon staff's analysis
23 of the proposed correction the diversion rate for 1996 is
24 40 percent. However, because the disposal tonnage for
25 1995 was extremely underreported and the data still cannot

1 be determined at this time, staff recommends that the rate
2 for 1995 be not determinable or ND.

3 In addition, the Board's disposal reporting
4 system staff have conducted site visits at the landfills
5 and have confirmed that beginning in 1996 the county
6 improved the accuracy of their reporting system. The
7 Office of Local Assistance staff has also visited the
8 jurisdiction and had the opportunity to see the disposal
9 facility and diversion programs in the area.

10 Programs implemented by the jurisdiction include
11 a procurement policy, a business waste reduction program,
12 residential dropoff and buyback centers, store recycling
13 programs, the concrete asphalt recycling program. In
14 addition, the county has begun working closely with the
15 Board's Office of Integrated Education to institute
16 teacher-training workshops.

17 Staff is determined that the program
18 implementation is adequate and the disposal reporting
19 system is greatly improved and therefore recommends the
20 Board accept the 1997/1998 biennial review.

21 Finally, the county has successfully completed
22 all requirements identified in its compliance order.
23 Therefore, staff recommends that the Board find that the
24 county has completed their compliance order.

25 Members from the county are here today to answer

1 any questions. This concludes my presentation.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 Questions, Mr. Eaton.

4 BOARD MEMBER EATON: I have one. And it can
5 pertain to Mono, but Mr. Schiavo and Ms. Morgan and I want
6 to include Ms. Jordan in there. Do ever your divisions
7 talk? The fact that BOE says that they underreported,
8 does then the Board get that extra -- go back and charge
9 them for the underreported disposal?

10 If you're an audit and if you say you've got a
11 thousand tons. And then all of a sudden they go back and
12 they say well, you've got 1,500 tons, do we ever go back
13 and collect the 500 that they didn't pay us for in the
14 first place?

15 And that would really be a coordination and I'm
16 not trying to be critical, but I mean we're seeing a lot
17 more of these base year adjustments, for instance. All of
18 sudden we're getting this real big increase and disposal
19 in generation. Do we ever go back and collect that money?

20 DEPUTY DIRECTOR JORDAN: I can't Say that I know
21 that we have. I would have to check with BOE.

22 DEPUTY DIRECTOR SCHIAVO: On a statewide basis if
23 you compare the Board of equalization of disposal tonnages
24 with the disposal reporting system, they align with-in one
25 percent and less than one percent on a statewide basis.

1 BOARD MEMBER EATON: This is an audit that takes
2 place subsequent to that publication. That's the
3 difference is what I'm trying to get at.

4 DEPUTY DIRECTOR JORDAN: We will certainly --

5 BOARD MEMBER EATON: I'd just ask if you'd go
6 back and check. I mean, if you'd get back to us, because
7 there's probably several, you know, \$1.34's out there.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Madam Chair, just one thing,
10 and maybe the consultant can help with this. If they were
11 underreporting because they didn't have scales, they were
12 assessing a weight value on a yard of garbage, how were
13 they assessing their tonnage Mr. Greco.

14 MR. GRECO: For the record, I'm Jim Greco an
15 independent consultant doing business as California Waste
16 Associates. There are six landfills in Mono county. And
17 I think the Benton Crossing Landfill, which is the subject
18 of the audit was determining their consumption of capacity
19 on the trench-fill method.

20 Like quarterly, they would just observe how much
21 of it was full. And I think they applied a thousand
22 pounds per cubic yard diversion.

23 BOARD MEMBER JONES: In place.

24 MR. GRECO: In place.

25 BOARD MEMBER JONES: All right, so was it free

1 disposal?

2 MR. GRECO: It was. In the early nineties --

3 BOARD MEMBER JONES: Never mind then, that's
4 fine.

5 MR. GRECO: None of these landfills were staffed,
6 gated, fenced.

7 BOARD MEMBER JONES: No, what I'm saying is it
8 goes -- I mean, what Mr. Eaton is asking is accurate,
9 because if a facility is saying that a yard of garbage
10 weighs some goofy number, right, a hundred pounds, and
11 they're not paying the fees, then they gain a competitive
12 advantage. We have one county that didn't have scales
13 that actually overreported, but paid the fees.

14 And then when they got scales, they found out
15 that they were in compliance with AB 939 but, you know, I
16 figure, hey, you pay the fee, you know it was honest deal.
17 Good program, put a scale in, get to compliance.

18 MR. GRECO: There's a scale now at Benton
19 Crossing that went into operation in '98 and there's three
20 other scales going in November 1st at the other three
21 small landfills.

22 BOARD MEMBER JONES: So they base their BOE
23 payments on what they thought they put in place, not what
24 was coming across the scale.

25 MR. GRECO: Until the audit, then the auditor

1 determined with the County what more they should pay on
2 the basis of truck loads coming in and different types of
3 waste densities, and that was BOE.

4 BOARD MEMBER JONES: One more question, Mr.
5 Greco. I know they've talked about they're looking at
6 programs things like that. With this disposal going up
7 their diversion rate nondetect or going down, are they
8 putting programs in place so that when they get to come in
9 front of us for the goal year 2000, they are, you know,
10 working to get the diversion in compliance.

11 MR. GRECO: They are putting programs in place.
12 And I think what was noteworthy was I think one of the
13 staff visits in may, Mary Wilson was with the county and
14 with town and I was there too, and they were addressing
15 the contractors who had their annual monthly meeting and
16 they put in place a differential fee of bringing debris
17 into landfill so if they brought it in clean, they get a
18 discount rate. The contractors loved it, that was another
19 new program they added.

20 BOARD MEMBER JONES: Cool.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you. How
22 much are landfill scales?

23 BOARD MEMBER JONES: It depends. You have 35 or
24 70 footer, it depends. They're expensive. Very
25 expensive. And then it depends on the grade too. There's

1 just a lot to it. It depends. It could cost you \$30,000.

2 It could cost you \$100,000.

3 MR. GRECO: If I can just add one quick comment.

4 Basically the tonnage level of Mono County, which is a

5 pretty big county is 25 tons a day. That's less than five

6 garbage trucks. I mean, it's small.

7 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

8 BOARD MEMBER JONES: Madam Chair?

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I'd like to move adoption of

11 Resolution 2001-163, consideration of staff recommendation

12 of a completion of compliance order IWMA BR99-81 and

13 consideration of the 1997 biennial review finding for the

14 source reduction and recycling element and household

15 hazardous waste element for the unincorporated Mono

16 County.

17 BOARD MEMBER MEDINA: Second.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. We

19 have a resolution by Mr. Jones seconded by Mr. Medina to

20 approve resolution 2001-163.

21 Please Call the roll.

22 SECRETARY VILLA: Eaton?

23 BOARD MEMBER EATON: Aye.

24 SECRETARY VILLA: Jones?

25 BOARD MEMBER JONES: Aye.

1 SECRETARY VILLA: Medina?

2 BOARD MEMBER MEDINA: Aye.

3 SECRETARY VILLA: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 SECRETARY VILLA: Moulton-Patterson?

6 CHAIRPERSON MOULTON-PATTERSON: Number 37.

7 DEPUTY DIRECTOR SCHIAVO: Item number 37 is

8 Consideration of staff recommendation on the Model Source
9 Reduction and Recycling Element. And Tabettha Willman will
10 also be presenting this item.

11 MR. WILLMAN: Good morning -- good afternoon
12 Madam Chair and Board Members. I'm Tabettha Willman with
13 the Office of Local assistance. I was lucky thinking on
14 my part, but I need to begin by letting you know that
15 there is a revised page. It's page 37-16 that will be
16 handed out. It's table 8 of the model source reduction
17 recycling element, which is the solid waste disposal
18 tonnage table.

19 In that table the other organics category was
20 inadvertently deleted, so we caught that and added it back
21 in. So you'll be getting that revised page.

22 CHAIRPERSON MOULTON-PATTERSON: We have it, thank
23 you.

24 MR. WILLMAN: I am presenting to you for your
25 approval the model source reduction and recycling element.

1 This model was developed to be used as a tool for newly
2 incorporated cities that must prepare their source
3 reduction and recycling elements as well as in response to
4 the SB 2202 provision that requires the Board to develop a
5 model for jurisdictions revising their source reduction
6 and recycling elements of -- the model is to be developed
7 by July 1, 2001.

8 This model will provide guidance on fulfilling
9 the statutory and regulatory source reduction and
10 recycling element content requirements. It was developed
11 using a combination of the Board's various existing
12 planning tools. The model will allow jurisdictions -- it
13 will allow a combination of the Board's various existing
14 planning tools.

15 A jurisdiction's source reduction and recycling
16 element will be able to be submitted in a streamline
17 format that is compatible with the Boards existing
18 planning databases.

19 By using this model jurisdictions will save
20 resources including cost and staff time in preparing and
21 submitting their source reduction and recycling elements.

22 Currently this model is available in hard copy or
23 can be sent electronically to any jurisdiction that
24 requests it. Board staff are also planning to make this
25 available electronically via theInternet to allow

1 jurisdictions to submit it electronically.

2 Staff is recommending that the Board approve the
3 model source reduction and recycling element. Thank you
4 for your time. I'd be happy to answer any questions.

5 BOARD MEMBER JONES: Madam Chair.

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: First, I want to commend
8 staff for all the work and move adoption of resolution
9 2001-164, consideration of a staff recommendation on the
10 model source reduction and recycling element.

11 CHAIRPERSON MOULTON-PATTERSON:

12 BOARD MEMBER MEDINA: I'll second that motion.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you. I'll
14 be voting for it, but I also wanted to say, you know, I
15 really liked it, and I really liked that you put in the
16 noticing of public hearings and CEQA, because I understand
17 from my staff that that was often left off, so thank you.
18 Very nice job.

19 Please call the roll.

20 SECRETARY VILLA: Eaton?

21 BOARD MEMBER EATON: Aye.

22 SECRETARY VILLA: Jones?

23 BOARD MEMBER JONES: Aye.

24 SECRETARY VILLA: Medina?

25 BOARD MEMBER MEDINA: Aye.

1 SECRETARY VILLA: Paparian?

2 BOARD MEMBER PAPARIAN: Aye.

3 SECRETARY VILLA: Moulton-Patterson?

4 CHAIRPERSON MOULTON-PATTERSON: Aye.

5 Okay, Mr. Miiller, number 40, discussion of
6 pending litigation.

7 BOARD MEMBER MEDINA: Legislation.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. It's
9 late. Can you tell us about litigation too.

10 ASSISTANT DIRECTOR MIILLER: I'd rather not
11 actually.

12 BOARD MEMBER JONES: It's legislation that's
13 going to cause litigation.

14 ASSISTANT DIRECTOR MIILLER: Good afternoon Madam
15 Chair and members. My name is Mark Miiller, Assistant
16 Director, Office of Legislation And external affairs.

17 I briefly want to give you an update on
18 legislation. First, I want to report that the Senate is
19 forming a select Committee on landfills, and Senator
20 Romero will be chairing that committee.

21 We'll be meeting with her staff, as soon as that
22 is done, to find out the direction of that Committee, what
23 they want to accomplish in order to bring that back to you
24 also. That just happened on Monday.

25 As you know the deadline for Bills to pass out of

1 the house origin has Come and gone. And I want to just
2 real briefly run by you the two-year bills and the bills
3 that are still moving.

4 The two year bills include SB 243 previously
5 discussed. That is Senator Kuehl's measure on radioactive
6 waste in landfills. That's a two-year bill. Also Senator
7 Chesbro's SB 1069 dealing with an ADF for plastics.
8 That's a two-year bill, as is AB 400 Simitian's rubberized
9 asphalt concrete bill.

10 The bills that are still moving, our bill, of
11 course, AB 1187. That bill is moving. And pursuant to
12 your direction yesterday, we will be seeking the amendment
13 you requested to increase the Board's authority to \$5
14 million for household hazardous waste grants.

15 Chavez's AB 173 dealing with inert waste, that
16 bill is still moving. AB 709 is from Mr. Wayne's San
17 Diego Burn Dumps Bill. That bill is till alive and well.

18 AB 1400 the Cogdil's Yosemite compost bill. That
19 bill was approved, but the appropriation was cut back
20 from -- I mean I believe to \$900,000. AB 88 is Costa's
21 nuisance odors bill from compost facilities. That bill
22 was amended yesterday in the Assembly Natural Resources
23 Committee. I haven't seen those amendments yet. But I
24 believe rather than delete the sunset date on the
25 provision all together it extended it pursuant to our

1 adopting necessary regulations, much the way the AB 173
2 was amended in the same committee.

3 Senator Torlakson's SB 373 is moving through the
4 process. We're working with that office to get the cost
5 resolved in that bill. It has a \$2 million appropriation.
6 And I will be working closely with that author to get that
7 resolved. I know there was great concern to the members.

8 BOARD MEMBER JONES: Did that whole \$2 million
9 coming out of the IWMA?

10 ASSISTANT DIRECTOR MIILLER: It's got 2 million
11 that comes from the bottle bill program, 2 million that
12 comes from AIWMA then it says that of that 4 million, 3
13 million has to reimburse schools for costs.

14 My understanding is that that was an amendment
15 that was put on the author. It was not an amendment
16 that they requested, but the Appropriations Committee put
17 that amendment in the bill when it passed the office
18 suspense file.

19 So we're working closely with the author and with
20 the sponsor on Californians against waste to try and get
21 that resolved. We're working on that.

22 BOARD MEMBER EATON: I mean, this program also is
23 going to include how many people? I mean how many of our
24 staff do they think that they're going to get.

25 ASSISTANT DIRECTOR MIILLER: Well, under the bill

1 right now, not much if any.

2 BOARD MEMBER JONES: For \$5 million bucks.

3 ASSISTANT DIRECTOR MIILLER: Well, the way it's
4 written right now, it's three million have to be used to
5 reimburse the schools for their costs, so that was only
6 one million. And then it says of the Department of
7 Transportation's two million, that two million has to be
8 used for their program.

9 So the bill is tremendously flawed in the way
10 it's written right now. The author isn't intending to put
11 a big program on the Board. He's basically saying that
12 the Board has an this Board program that's trying to
13 create to provide guidance to schools and how they can
14 increase their waste reduction efforts, and wants us to --
15 the bill is intended to facilitate the communication
16 between the Board and the schools. And it's kind of --

17 BOARD MEMBER JONES: I thought we had a whole
18 program that was schools. I have a question, because this
19 is getting me more nervous by the moment.

20 ASSISTANT DIRECTOR MIILLER: Likewise.

21 BOARD MEMBER JONES: If there is a three and a
22 half million pay back to schools, 2 million of that's
23 supposed to come from the IWMA fund.

24 ASSISTANT DIRECTOR MIILLER: It's three million
25 of which two million comes from the Department of

1 Conservation, two million comes from us for a total of
2 four. Of that four million, three million goes to
3 reimburse schools.

4 BOARD MEMBER JONES: Okay. What are the cities
5 that have put together multi-million dollar programs to
6 meet AB 939?

7 CHAIRPERSON MOULTON-PATTERSON: Often working
8 schools.

9 BOARD MEMBER JONES: Yeah, I mean their funds
10 aren't reimbursed. I mean, we need to really think this
11 through. We've got all -- I mean 587 jurisdictions, or
12 whatever it is, 589, that have had to comply with AB 939
13 without any funds, and now we've got a bill that was
14 supposed -- when it was work with the schools and try to
15 help them, I didn't have a problem, It would have fit into
16 what Clint Whitney was doing.

17 But three and a half million dollars, then you're
18 asking cities and counties that are paying fees to us
19 through the landfill, and then spending money for
20 diversion programs to fund a repayment back to the
21 schools. Somehow somebody ain't connecting the dots here.

22 ASSISTANT DIRECTOR MIILLER: I want to stress
23 that this is not what the author intended to do. The bill
24 was amended -- the amendment was put in this bill.

25 BOARD MEMBER JONES: But Michael, how many times

1 do the authors get a bill high-jacked and it still passes?

2 ASSISTANT DIRECTOR MIILLER: This one the author
3 has committed to try to resolve. We're working with the
4 staff very closely. This is not an amendment that the
5 author wants and we're working closely with the staff to
6 get it resolved.

7 BOARD MEMBER JONES: I'm confident you're working
8 closely with their Chairman to make sure that this
9 thing -- because I've been getting updates once in a
10 while, but I mean this could be disastrous.

11 ASSISTANT DIRECTOR MIILLER: Yes.

12 Also another bill is moving that I want to make
13 you aware of, SB 1127, Karnette. It's a bill that deals
14 with polystyrene. I want to raise that as an issue
15 because you just, on Item 34, discussed the prospective
16 rate. Senator Karnette has asked us if we had any
17 amendments that we wanted to pursue in plastics
18 legislation. If you wanted to do legislation on that, I
19 could suggest this to her. I wanted to make you aware of
20 that option, if you wanted to.

21 CHAIRPERSON MOULTON-PATTERSON: Any questions?

22 BOARD MEMBER EATON: I have one, Mr. Chavez --
23 Assemblyman Chavez's Bill where is it positioned?

24 ASSISTANT DIRECTOR MIILLER: It's in Senate
25 Environmental Quality Committee. I believe it's scheduled

1 for a July 2nd hearing.

2 BOARD MEMBER EATON: That's the inert bills which
3 extends the inert. You should be aware of the fact, if
4 you're not, that contrary to what was the agreement with
5 this Board, the prime sponsor of that bill, Waste
6 Management, had not taken a different position with
7 regards to inerts. And my understanding is whether not
8 that codified language can affect the version, it will be
9 there is my understanding.

10 Is that right, Mr. Schiavo?

11 DEPUTY DIRECTOR SCHIAVO: It's starting to appear
12 that way yeah.

13 BOARD MEMBER EATON: Yeah, that was not the
14 agreement.

15 BOARD MEMBER JONES: That was not the agreement.

16 CHAIRPERSON MOULTON-PATTERSON: Any other
17 questions for Mr. Miiller.

18 Mr. Miiller, I'm sure you have Emailed that to
19 us, but, you know, the summary -- could we have one of
20 those of those bills. I know you're updating it.

21 ASSISTANT DIRECTOR MIILLER: All of these bills,
22 we can get that for you.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 BOARD MEMBER JONES: Madam Chair.

25 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

1 BOARD MEMBER JONES: I think going off of what
2 Mr. Eaton said, you know, on this inert bill, they got the
3 thing in. They got the fee suspended through Senator
4 Chesbro's bill. The agreement was going to be treat this
5 not as -- it won't be disposal. It won't be diversion.
6 You know, just leave it alone because there's all these
7 others, and we were trying to work through that. And now
8 we get a form that shows 475,000 tons. It's almost a half
9 a million tons of diversion that gets assigned to
10 jurisdictions, to put dirt into a pit and rice and
11 concrete and brick.

12 And that changes the rules. You know, I mean we
13 need to really be kept up to that, because at some point I
14 think this Board has got to say we ain't going there. So
15 I mean to keep the fee off and then get diversion credit,
16 now I've been told that that was a mistake, so we'll see,
17 you know.

18 ASSISTANT DIRECTOR MIILLER: Would it be
19 appropriate if I sat down with Mr. Schiavo and got all the
20 information and shared It with the Senate Environmental
21 Quality Committee? It sounds like that's what you're
22 asking me.

23 BOARD MEMBER JONES: I think at least to explore
24 that with, you know, people involved and make sure that,
25 you know, hey if it was a mistake, but if it was half a

1 million tons of diversion credit, you know, and they don't
2 pay fees that's too many wins.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Miiller.

5 Is there any public comment prior to adjournment?
6 Then this meeting is over.

7 Thank you very much.

8 (Thereupon the California Integrated Waste
9 Management Board adjourned at 4:30 p.m.)

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10 I further certify that I am not of counsel or
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